

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Feldman DATE TYPED: 3/10/03 HB _____

SHORT TITLE: Prohibit Unsolicited Email & Fax Advertising SB 699/aSPAC

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

SOURCES OF INFORMATION

Responses Received From

Public Regulation Commission (PRC)
 General Services Department (GSD)
 Attorney General's Office (AG)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment changes "information" to "advertisement" and makes other changes to expand and clarify the prohibited material. SB 699 allows a telecommunications utility or internet service provider who is injured under this bill to collect actual damages. The SPAC amendment permits the injured party to also collect reasonable attorney fees and costs.

Synopsis of Original Bill

Senate Bill 699 gives the AGO the expanded statutory authority to take actions regarding unsolicited email or fax advertising under the Unfair Trade Practices Act (UTPA).

SB 699 prohibits the use of unsolicited fax or e-mail for the purpose of advertising for realty, goods, services or extension or credit, unless the solicitor follows certain procedures, such as providing a toll-free number that the recipient may call to request that future e-mails or faxes not be sent.

The provisions of SB 699 do not apply to telecommunications utility information or to internet services that merely carry the transmission over its network. Also exempted are transmissions between a solicitor and a person with whom a business relationship exists and someone requesting the e-mail or fax.

SB 699 provides various remedies for violations of the bill.

Significant Issues

Many members of the public find the receipt of “junk” mail, known in the industry as SPAM, very annoying. In the case of faxing, the recipient is forced to bear the cost of the paper and have the fax line being used for non-productive services. SB 699 is the electronic version of no-call legislation.

The AGO states from both a consumer and business perspective, HB 699 has favorable consequences. On the one hand, it provides for a strong method of discouraging deceptive advertising that benefits those businesses engaging in lawful practices of advertising. On the other, it protects the consumer from the invasion of privacy and bombardment of unwanted advertising.

The AGO believes enacting this legislation under the umbrella of the UTPA, HB 699 allows the AGO to pursue such violations as a public interest and send a strong message to those who may be engaging in this practice on a widespread basis.

ADMINISTRATIVE IMPLICATIONS

The AGO will need to implement and enforce the provisions of SB 699, but since enforcing the responsibilities of the unfair trade practices act is part of the responsibilities of the Consumer Protection Division, no additional staff is needed.

DW/prr/njw