



NEW YORK STATE SENATOR

William Larkin

Senate Passes Larkin Spam Bill

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Senator Bill Larkin (R-C, Cornwall-on-Hudson) today announced the State Senate has passed legislation (S.5997) he sponsored that would prohibit the transmission of certain unauthorized and misleading e-mails.

Highlights of the bill include: Prohibiting the transmission of electronic mail that uses or misrepresents its point of origin or contains false or misleading information on the subject line; Prohibiting e-mail that is unsolicited unless there is a toll-free phone number or return e-mail address that the receiver may use to request no further unsolicited e-mails; Prohibiting unsolicited e-mail to people who have used the toll-free number or return e-mail stating they do not want any further unsolicited e-mail; Requiring unsolicited e-mails to contain in the subject line the letters "ADV: ADLT" when they contain material that may be viewed, purchased, rented, leased or held in possession only by those 18 or older; Establishing fines for violators; and Allowing internet service providers to block e-mails they believe are in violation of this act.

"Spam is not just a nuisance, it is becoming increasingly problematic for New Yorkers," said Senator Larkin. "Unsolicited e-mails containing 'Get rich quick' schemes and pornographic materials are particularly disturbing, and account for almost two-thirds of all spam. Spam has significant costs for internet service

providers who must pay for the increased bandwidth that bulk e-mail uses. They in turn pass these costs onto their customers. In addition, businesses must pay for ever-changing software to filter spam from their systems, and employees must spend time sifting through their e-mails to find those that are or are not legitimate. This bill mirrors a California law and a Washington law that have both withstood constitutional challenges and have reduced the amount of unsolicited e-mails."

The State of Washington forbids commercial e-mail with misleading subject lines or with a disguised point of origin and the Washington State Supreme Court upheld the law in July 2001. In California, the legislation requires unsolicited commercial e-mails transmitted in the state to contain the letters "ADV" in the subject line. If such e-mail contains sexual material, the subject line must read "ADV:ADLT." In April 2002, the California Supreme Court let stand a California Court of Appeals ruling that upheld the statute.