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House Bill 4519 (Substitute S-1 as reported)  
Sponsor: Representative Bill Huizenga  
House Committee: Energy and Technology  
Senate Committee: Technology and Energy

### **CONTENT**

The bill would create the "Unsolicited Commercial E-mail Protection Act", effective September 1, 2003, to do all of the following:

- Require senders of unsolicited commercial e-mail to include a subject line containing "ADV:" as the first four characters; certain contact information; and a valid method for recipients to opt out of receiving future e-mails.
- Prohibit a sender of unsolicited commercial e-mail from using a third party's internet domain name or e-mail address without consent; or misrepresenting or failing to include information in identifying the point of origin or the transmission path of the e-mail.
- Prohibit a person from knowingly providing or possessing with the intent to provide software designed to facilitate or enable the falsification of e-mail transmission information.
- Require a sender of unsolicited commercial e-mail to establish and maintain the necessary policies and records to ensure that a recipient who notified the sender that he or she did not wish to receive future e-mails did not receive any e-mail from the date of notice.

A person who violated the proposed Act would be guilty of a misdemeanor punishable by imprisonment for up to one year and/or a fine of up to \$10,000. A person who misrepresented or failed to include information regarding the point of origin or transmission path of an e-mail, provided software used to falsify transmission or routing information, or violated the Act in the furtherance of another crime would be guilty of a felony punishable by up to four years in prison or a maximum fine of \$25,000, or both.

A civil action could be brought by the recipient of an unsolicited commercial e-mail, an e-mail service provider through whose facilities an e-mail was transmitted in violation of the Act, or the Attorney General. The plaintiff could recover either actual damages or the lesser of the following: \$500 per unsolicited commercial e-mail received by the recipient or transmitted by the e-mail service provider, or \$250,000 for each day the violation occurred. A prevailing recipient or service provider also would be awarded actual costs and reasonable attorney fees.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

There are no data to indicate how many offenders would be convicted of violating the proposed Act. Local units of government would incur the costs of misdemeanor probation and incarceration in a local facility, which varies by county. The State would incur the cost of felony probation at an average cost of \$4.80 per day and incarceration in a State facility at an average cost of \$25,000 per year. For each person who was convicted of violating the Act in the furtherance of another crime and sentenced to prison for the longest allowable minimum sentence, it would cost the State approximately \$67,000. Public libraries would benefit from any additional penal fine revenue collected.

Date Completed: 6-5-03

Fiscal Analyst: Bethany Wicksall