

Legislative History for Connecticut Act

HB 5028 (PA 160) <del>SEN</del> 1999
Sen: 2819-2820, 2849-2851
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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Joint Standing Committee hearings, General Law. 1999:pt.2 , p.647-648

Joint Standing Committee hearings, General Law. 1999:pt.3 , p.773-775,  
787-788

Proceedings / Connecticut General Assembly, House. 1999 v.42:pt.10

Proceedings / Connecticut General Assembly, Senate. 1999 v.42:pt.8

emergency spraying would still occur or part of a facility, for instance, an athletic field could be sprayed while the school was in use.

Without further objection, I would move this to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 7, Calendar 556, Files 558 and 781, Substitute for HB5028 An Act Prohibiting Unauthorized Use of a Computer and Other Computer Offense, as amended by House Amendment Schedule "A". Favorable Report of the Committees on General Law and Judiciary.

THE CHAIR:

Senator Colapietro.

SEN. COLAPIETRO:

Thank you, Madam President. I move the Joint Committee's Favorable Report and passage of the bill as amended by the House.

THE CHAIR:

The question is on passage in concurrence with the House. Will you remark?

SEN. COLAPIETRO:

Thank you, Madam President. What this House Amendment replaces the original file, House Amendment

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002820

Senate

Thursday, June 3, 1999

"A" replaces the original file which prohibited using a computer service to send unsolicited commercial advertisements without the recipient's prior consent.

The bill prohibits someone without authorization for using a computer or computer network to falsify E-mail transmission or routing information, disable a computer or computer network, cause a computer to malfunction, alter or erase data, create or alter financial instruments, cause physical injury to property or make unauthorized copies. I move the bill, Madam President.

THE CHAIR:

Will you remark further? Will you remark further?

Senator Colapietro.

SEN. COLAPIETRO:

Thank you, Madam President. If there's no further discussion, I would move this to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Matters Returned from Committee, Calendar Page 10, Calendar 197, Files 209 and 738, Substitute for SB1080 An Act Concerning Notification of Assumption of Solid Waste Collection by Municipalities. Favorable Report of the Committees on Environment and Planning and

## THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the first Consent Calendar begins on Calendar Page 2, Calendar 394, Substitute for SB1014.

Calendar Page 5, Calendar 546, Substitute for HB6038.

Calendar 547, Substitute for HB7076.

Calendar Page 6, Calendar 550, Substitute for HB6924.

Calendar 551, Substitute for HB5532.

HB 5332

Calendar 552, Substitute for HB6883.

Calendar Page 7, Calendar 556, Substitute for HB5028.

Calendar Page 11, Calendar 326, Substitute for SB401.

Calendar Page 12, Calendar 406, Substitute for HB6792.

Calendar Page 14, Calendar 266, Substitute for SB400.

Calendar Page 15, Calendar 470, Substitute for

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SB1334.

And on Page 16, Calendar 151, Substitute for

SB1229.

Madam President, that completes the First Consent  
Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Would you once again  
announce a roll call vote on the Consent Calendar. The  
machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

THE CHAIR:

Have all members voted? If all members have voted,  
the machine will be locked. The Clerk please announce  
the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.  
Total number voting, 34; those voting yea, 34;  
those voting nay, 0. Those absent and not voting, 2.

THE CHAIR:

The Consent Calendar is adopted. At this time the Chair will entertain points of personal privilege or announcements. Are there any announcements? Senator Peters.

SEN. PETERS:

Thank you, Madam President. I would like the Journal to note that any votes missed by Senator Sullivan were due to the fact that he was out on legislative business.

THE CHAIR:

Thank you. The Journal will so note. Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. For purposes of an announcement.

THE CHAIR:

Just a moment, please. (GAVEL) Senator Daily.

SEN. DAILY:

The Environment Committee will meet tomorrow morning at 11:30 a.m. in Room 1D to consider bills from the floor.

THE CHAIR:

Senator Daily, I couldn't even hear you. (GAVEL) Ladies and gentlemen, please. We haven't yet adjourned. Senator Daily, you have the floor.

gmh

House of Representatives

Friday, May 28, 1999

Representative Godfrey.

REP. GODFREY: (110TH)

Madam Speaker, I move that this item be referred to the Committee on Human Services.

SPEAKER LYONS:

Hearing no objection, so ordered.

Calendar 551.

CLERK:

On page 33, Calendar 551, Substitute for Senate Bill Number 916, AN ACT CONCERNING WITNESS PROTECTION. Favorable Report of the Committee on Human Services.

SPEAKER LYONS:

Representative Godfrey.

REP. GODFREY: (110TH)

And Madam Speaker, I move that this item be referred to the Committee on Public Safety.

SPEAKER LYONS:

Hearing no objection, so ordered.

Would the Clerk please call Calendar 397?

CLERK:

On page 8, Calendar 397, Substitute for House Bill Number 5028, AN ACT CONCERNING UNSOLICITED COMMERCIAL E-MAIL. Favorable Report of the Committee on Judiciary.

SPEAKER LYONS:

Representative Paul Doyle.

House of Representatives

Friday, May 28, 1999

REP. DOYLE: (28TH)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER LYONS:

The question before the Chamber is on acceptance and passage. Will you remark?

REP. DOYLE: (28TH)

Yes. Thank you, Madam Speaker. This bill -- the file copy of the bill originated in the General Law Committee and then was approved through the Judiciary Committee, I believe, with great support.

At that point, though, in the Judiciary Committee issues were raised on this bill regarding the scope of it. The file copy before us is basically a broad based ban of all unsolicited commercial e-mail. Recognizing the problems with such a broad ban, we have done much work in trying to fashion a narrow focus of this bill.

And therefore, I would like to have the Clerk please call and I be allowed to summarize an amendment, LCO Number 8484.

SPEAKER LYONS:

Would the Clerk please call LCO 8484, designated House "A" and the gentleman has asked leave to summarize.

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House of Representatives

Friday, May 28, 1999

CLERK:

LCO Number 8484, House "A" offered by  
Representative Doyle and Senator Cappiello.

SPEAKER LYONS:

Please proceed, sir.

REP. DOYLE: (28TH)

Thank you, Madam Speaker. First of all, I move this amendment and what this amendment does, as I said, it narrows the focus of the bill. Basically this amendment is based upon a similar statute that was recently adopted earlier this year in Virginia in recognizing that this overall topic is new and its new technology, the focus of this amendment, which I will briefly state, is that instead of the broad base ban, what it does is if a person uses a computer without the authority of a person using it or transmits it not in accordance with the rules and regulations of the e-mail provider, basically establishing that he does not have authority to send it and then he moves ahead to falsify or forge the routing information or the headers of an e-mail, then the person can be charged with this offense.

And in plain English, what it means is if a person goes out and sends out bulk e-mails with falsified headers or fraudulent headers, and then from there the

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House of Representatives

Friday, May 28, 1999

person sends it to many people and then he can be charged.

The reality is people send out e-mails in bulk rate with bulk numbers without the intent of identifying themselves and they use it for pornography or other things. The bottom line is if we can identify who these people are, that's a way to really target it and this bill has an individual right of private action for individuals seeking to pursue this.

It also has a right for the Attorney General to pursue people who send these e-mails. And the reality is there's going to be quite a -- anyone charged with this will be numerous incidents in terms of the bulk sending.

So therefore, this is a tighter bill, a tighter focus and a good first step if we move ahead to try to police the unsolicited commercial e-mails.

And I move its adoption, Madam Speaker.

SPEAKER LYONS:

The question is on adoption. Will you remark further on the amendment that is before us? Will you remark further on the amendment that is before us?

If not, I will try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

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House of Representatives

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Aye.

SPEAKER LYONS:

Those opposed, nay. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

If not, would staff and guests please come to the Well? Will members take their seats? The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

SPEAKER LYONS:

Have all the members voted? Would the members please check the board to make sure that your vote is accurately recorded? If all the members have voted, the machine will be locked. And the Clerk will take a tally.

The Clerk will please announce the tally.

CLERK:

House Bill 5028, as amended by House "A"

Total Number Voting	125
Necessary for Passage	63
Those voting Yea	125

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House of Representatives

Friday, May 28, 1999

Those voting Nay 0

Those absent and not Voting 26

SPEAKER LYONS:

The bill, as amended passes.

Would the Clerk please call Calendar 559?

CLERK:

On page 34, Calendar 559, Substitute for Senate Bill Number 333, AN ACT CONCERNING ADVANCED PRACTICE NURSING. Favorable Report of the Committee on Insurance.

SPEAKER LYONS:

Representative Mary Eberle.

REP. EBERLE: (15TH)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER LYONS:

The question before the Chamber is on acceptance and passage. Will you remark?

REP. EBERLE: (15TH)

Thank you, Madam Speaker. This bill was before us previously and we adopted Senate "A" and Senate "B". The Clerk has another amendment, LCO 8953. If he could call and I be allowed to summarize.

SPEAKER LYONS:

PRESIDING CHAIRMAN: Representative W. Fox

COMMITTEE MEMBERS PRESENT:

SENATORS: Colapietro, LeBeau, Upson,  
Cappiello, Ciotto

REPRESENTATIVES: Fox, Feltman, Abrams,  
Christ, Esposito, Ferrari,  
Nafis, Greene, Ryan

REP. DOYLE: Good morning. Thank you, Senator Colapietro and other members of the General Law Committee. I'm here to testify in favor of HB 5028, an Act Concerning Unsolicited Commercial E-mail. This Bill -- commercial junk mail or spam are words that stir feelings of frustration among numerous of our citizens, on the internet, either where they use their computers at home or at work.

Basically, finding your computer mailbox filled with unsolicited commercial E-mail messages seeking -- or other businesses are seeking to sell products is burdensome to our citizens with computers. It results in wasted time in terms of using your computer, because you have to go in and delete them many times. And we're all familiar with them here at the Capitol, too. But in the business setting, it's quite a different situation where people are just looking to sell you products.

It also can actually be costly to the consumer, because of the actual time deleting them could be charged on your internet service provider. In addition, it actually just physically could take much time in a person's business day so -- in reducing productivity for overall business people.

Historically, the Federal government recently outlawed illegal junk faxes and this legislation ended up being effective in a sense that the large, burdensome faxes have dropped because of this Bill.

In conclusion, I would just like to thank your Committee for allowing me to testify today and I'd would like to ask you to act favorably on this Bill to reduce the financial and time constraints on private individuals and businesses.

Thank you very much.

REP. FOX: Questions? Paul, thank you.

REP. DOYLE: Thank you very much.

REP. FOX: Nice to see you.

REP. DOYLE: Thank you.

REP. FOX: Alright. Jimmy Amann.

REP. AMANN: Thank you Senator Colapietro, Representative Fox. Thank you for the opportunity to come before you today. I apologize, my voice is almost back to normal, but --

: You sound like Grace.

REP. AMANN: Yeah. If it's not 100 percent I apologize. I'll do my best to get through my testimony. I'm here talking about HB No. 5905.

Now, I'd just like to try to give you as quick as a history of this Bill, or of this issue.

Approximately 10 months ago, the people at Ryder Park, which is a mobile unit area in the city of Milford. A community that's been there almost 60 years. A community of some fine residents in the city of Milford. They're in a dilemma. This has been highly publicized in the media, but for those who may not be familiar with it, bear with me.

The folks at Ryder Park are in a fight. A fight for their homes. A developer, basically has purchased the land where they live and at this particular time, they have first right of refusal.

Which means, they have a right to purchase the land themselves. They have been in negotiations with some private financiers and also some public folks that are interested in helping out their

ELIZABETH E. GARA  
ASSOCIATE COUNSEL  
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION (CBIA)  
BEFORE THE  
GENERAL LAW COMMITTEE  
MARCH 9, 1999

Good afternoon. My name is Elizabeth E. Gara, Associate Counsel for the Connecticut Business & Industry Association (CBIA). CBIA represents over 10,000 member companies across Connecticut. Our membership includes firms of all sizes and types, but most are companies with fewer than 100 employees.

CBIA *opposes* SB-182, An Act Concerning Consumer Enforcement of the Unfair Trade Practices Act.

SB-182 significantly expands the types of cases that may be brought under the Connecticut Unfair Trade Practices Act (CUTPA) by eliminating the requirement that a plaintiff demonstrate an ascertainable loss.

Under current law, in order to state a cause of action under CUTPA, a plaintiff must demonstrate that he/she has suffered an ascertainable loss of money or property, real or personal, as a result of the use or employment of a method or practice prohibited by Section 42-110b. Although plaintiffs do not have to prove a specific amount of actual damages to make out a prima facie case under CUTPA, the ascertainable loss requirement is a "threshold barrier" that must be satisfied in order to state a CUTPA claim. Hinchcliffe v. American Motors Corp., 440 A.2d 810, 815 (Conn. 1981)

Inasmuch as CUTPA proscribes all "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce" and authorizes

equitable relief, punitive damages and attorney's fees, SB-182 will dramatically increase litigation costs for employers.

Eliminating the threshold requirement that plaintiffs demonstrate a loss of money or property is an extraordinary alteration of the current law. In effect, SB-182 will convert every dissatisfied customer into a potential lawsuit under CUTPA. We therefore urge the committee to oppose SB-182.

CBIA also has concerns regarding HB-5028, An Act Concerning Unsolicited Commercial E-Mail.

HB-5028 may interfere with the legitimate use of commercial expression by prohibiting businesses from contacting existing customers or former customers regarding new products or services, special offers or discounts. It may also limit the ability of companies that are unable to absorb the cost of direct mail, print, radio or television advertising to market their products and services.

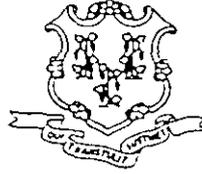
In light of the rapid pace of technological change involving the use of the internet, we are concerned that it may be premature to begin broadly regulating its use. The culture and dynamics of computer networks are complex and, as a result, it is not a simple area to regulate.

Because the internet and many on-line services are international networks, practical as well as constitutional constraints may make it difficult for state government to control or enforce conduct that originates beyond its borders. In fact, bulk e-mailers are increasingly locating operations abroad to escape government oversight.

Although we recognize the concerns that this bill is tended to address, market-driven solutions are increasingly being developed to protect consumers from unwanted e-mail.

For example, consumers that want to be protected from e-mail advertisements may choose a service provider which prohibits advertisements and attempts to filter them out. And many advertisers are now including opt-out provisions or instructions for removal in the text of the advertising messages that they send. Individuals and businesses can also choose to use their own filtering devices.

Many businesses get good response rates from e-mail advertisements. It appears, then, that some consumers find unsolicited e-mail useful. On balance, it may be better to look at emerging market-driven solutions to protect consumers rather than broadly banning unsolicited e-mails.



State of Connecticut  
 HOUSE OF REPRESENTATIVES  
 STATE CAPITOL  
 HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE PAUL R. DOYLE  
 TWENTY-EIGHTH DISTRICT

38 THORNBUSH ROAD  
 WETHERSFIELD, CONNECTICUT 06109  
 TELEPHONES  
 HOME: (860) 257-7952  
 CAPITOL: (860) 240-8585  
 TOLL FREE: 1-800-842-8267

VICE-CHAIR  
 JUDICIARY COMMITTEE

MEMBER  
 PROGRAM REVIEW AND  
 INVESTIGATIONS COMMITTEE  
 TRANSPORTATION COMMITTEE

DATE March 8, 1999  
 TO General Law Committee  
 FROM Representative Paul R. Doyle

**TESTIMONY IN FAVOR OF HB 5028**  
"An Act Concerning Unsolicited Commercial e-mail"

Good Morning, Senator Colapietro, Representative Fox, and honorable members of the General Law Committee. I am here to testify in favor of bill HB 5028, "An Act Concerning Unsolicited Commercial e-mail".

Commercial junk mail, or spam, are words that stir feelings of frustration among our numerous citizens who rely on the Internet either at home, at school, or at work. Finding your computer mailbox filled with unsolicited commercial messages seeking to

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sell products is burdensome to our citizens with computers. It results in wasted time each time you use your computer because you have to go in and delete the unsolicited e-mail.

It can also be costly to the computer user, since the time spent deleting the e-mail may be charged to your Internet service account. In addition, individuals and business people are forced to waste much time in their day physically deleting this unsolicited e-mail.

For a historical perspective, the federal government several years ago made it illegal to send junk faxes. This legislation was successful in resulting in a dramatic drop in the number of these faxes being sent to unsuspecting citizens and businesses.

In conclusion, I would like to ask the committee to act favorably on this bill to ease the financial and "time" burden on individual and business computer users by prohibiting unsolicited commercial e-mail.