

# Update on the Wave of CEMA Lawsuits

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Last year, the Washington Supreme Court issued a significant [decision](#) in a class action lawsuit accusing Old Navy of sending emails that included false or misleading information about the duration of sales. The Court determined that including such information in the emails' subject lines violated the state's Commercial Electronic Mail Act (or "CEMA").

Since our [last post](#) on CEMA, we've seen dozens of lawsuits alleging that a broad range of retailers across industries sent emails with subject lines that violate the law. My [Law360 article](#) last month summarizes these developments and provides some tips on what companies can do to help reduce their risk of getting dragged into a lawsuit.

As plaintiffs' attorneys continue to push CEMA far beyond its limits in their attempt to collect statutory damages where there is no injury, legislators in the Evergreen State have taken notice. Earlier this month, a bipartisan group of legislators introduced [SB 5796](#) and [HB 2274](#) to help bring common sense back to the law.

The bills would revise CEMA so that a subject line only violates the law if it is likely to mislead a reasonable recipient about a fact material to the transaction, and only if the subject line was material to the recipient's decision to complete the transaction. The bills would also remove CEMA subject-line violations as per se violations of the state's Consumer Protection Act, limiting remedies to CEMA's statutory damages.

Notably, if the bills pass, the legislation would apply both prospectively and retroactively to existing claims.

See the Washington Retail Association's [press release](#) for more details.