

Washington Amends State Anti-Spam Law

Gonzalo E. Mon

March 25, 2026

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 then, plaintiffs have filed more than 100 lawsuits alleging that a broad range of retailers across industries sent emails with subject lines that violate the law. Why are these cases on the rise? CEMA provides for statutory damages of \$500 per email, without a plaintiff having to prove damages.

As retailers fought the lawsuits in courts—[unsuccessfully](#), so far—the Washington Retail Association and other groups pursued a legislative fix with an amendment designed to stem the tide of frivolous lawsuits. On March 23, Governor Bob Ferguson signed the amendment into law.

The amendment makes two key changes:

- Damages are reduced from \$500 per message to \$100 per message, or actual damages, whichever is greater.
- A plaintiff must prove that a sender either actually knew what they were sending was false or misleading, or that objective facts show they reasonably should have known.

The changes will become effective on June 11, 2026. Although the changes are narrower than the ones originally proposed, the Washington Retail Association notes that broader changes weren't feasible given the 60-day legislative session. The Association hopes to work towards a more comprehensive long-term solution in 2027.