



STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

I signed House Concurrent Resolution No. 13, which urges the Congress to enact federal legislation (HR 2472 from the 107th Congress) to criminalize Internet transmission of indecent materials to minors, because I believe it is important to protect children from sexually explicit e-mail advertisements.

The Congressional resolution would require marketers to flag emails of an adult or pornographic nature so that parents can filter them from reaching their children. I am troubled, however, by a provision in HR 2472 that would allow parents to recover \$10,000 for each offending e-mail that reaches their minor child.

While I strongly believe in taking every step possible to protect our children from Internet pornography, I disagree with provisions that would create new causes of action. When combined with the low burden of proof required for civil remedies and the possibility of class action lawsuits, this provision – if passed – would likely further clog our court systems. Strong criminal penalties or civil remedies through the Federal Trade Commission (FTC), I believe, would be a more appropriate approach for addressing violations.

I look forward to working with the Texas congressional delegation on legislation during the 108th Congress that will provide strong criminal penalties or FTC enforcement to protect children from being exposed to such advertisements.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 20th day of June, 2003.

*Rick Perry*  
RICK PERRY  
Governor of Texas

ATTESTED BY:

*Gwyn Shea*  
GWYN SHEA  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 PM O'CLOCK

JUN 21 2003

## HOUSE CONCURRENT RESOLUTION

1           WHEREAS, A 2000 sample survey of 1,501 of the nearly 24  
2 million school-aged children regularly using the Internet in the  
3 United States found that approximately one out of every four  
4 children in that sample had experienced unwanted exposure to sexual  
5 images while on-line; and

6           WHEREAS, The development of the Internet is widely regarded  
7 as the most profound change in the way people communicate since the  
8 invention of the printing press, but as remarkable as it may be,  
9 there are risks to children that are unique to such a pervasive and  
10 accessible medium; with the development of newer and increasingly  
11 invasive technologies that can deliver or disguise unwanted  
12 material through direct marketing e-mails, or "spam" mailings, the  
13 risks are even more pronounced and difficult to detect; and

14           WHEREAS, Compounding the challenge of protecting minors from  
15 inappropriate material on-line is the fact that children often  
16 understand more about the Internet than their parents, teachers,  
17 and other caregivers; in addition, common sense measures used to  
18 secure a child's environment in the "physical world" are not  
19 feasible in cyberspace; and

20           WHEREAS, In a bipartisan effort to address these concerns,  
21 congress passed the Communications Decency Act of 1996 (CDA) and  
22 the Child Online Protection Act (COPA) and, in doing so,  
23 criminalized Internet transmission of indecent materials to  
24 minors; however, the Supreme Court ruled in 1997 that certain

1 provisions of the CDA were unconstitutional and in 2002 upheld a  
2 district court's temporary injunction against enforcement of COPA  
3 on the same grounds; and

4 WHEREAS, Recognizing the need to make children's on-line  
5 experiences safe, educational, and entertaining while honoring  
6 constitutional safeguards, the 107th Congress is considering  
7 legislation that would address specific questions posed by the  
8 Supreme Court without discouraging the evolution of the Internet  
9 or violating the First Amendment; and

10 WHEREAS, Modeled after existing law that regulates the  
11 identification of sexually explicit advertisements sent via U.S.  
12 mail, House Resolution 2472 requires the National Institute of  
13 Standards and Technology to prescribe an electronic tag that would  
14 identify sexually oriented messages and allow parents to use the  
15 filtering tools already available on e-mail programs to block  
16 messages bearing the tag; the legislation is a balanced and  
17 realistic solution to the complexities of protecting free speech  
18 and children on-line; now, therefore, be it

19 RESOLVED, That the 78th Legislature of the State of Texas  
20 hereby respectfully urge the Congress of the United States to enact  
21 the Protect Children From E-Mail Smut Act of 2001; and, be it  
22 further

23 RESOLVED, That the Texas secretary of state forward official  
24 copies of this resolution to the president of the United States, the  
25 speaker of the house of representatives and the president of the  
26 senate of the United States Congress, and all the members of the  
27 Texas delegation to the congress with the request that this

- 1 resolution be officially entered in the Congressional Record as a
- 2 memorial to the Congress of the United States of America.

West  
Allen  
Flynn  
Hughes  
Zedler  
Christian  
Van Arsdale  
Morrison

Wise  
Smith of Tarrant  
Mercer  
Phillips  
Crabb  
Swinford  
King

David Newhall

President of the Senate

Jim Coakley

Speaker of the House

I certify that H.C.R. No. 13 was adopted by the House on March 28, 2003, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.C.R. No. 13 was adopted by the Senate on May 20, 2003, by a viva-voce vote.

Patricia Snow  
Secretary of the Senate

APPROVED: 20 JUN 03

Date

Rick Denny  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3:30 PM O'CLOCK

JUN 21 2003  
Ann Shea  
Secretary of State