

**HOUSE BILL NO. 273**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KERTTULA

Introduced: 1/10/00

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the disclosure of subscriber information by Internet service  
2 providers."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 45.50.471(b) is amended by adding a new paragraph to read:

5 (43) violating AS 45.50.479 (disclosure of information by Internet  
6 service provider).

7 \* **Sec. 2.** AS 45.50 is amended by adding a new section to read:

8 **Sec. 45.50.479. Disclosure of information by Internet service provider.** (a)

9 An Internet service provider or an employee of an Internet service provider may not  
10 disclose subscriber information about a subscriber of the Internet service provider, or  
11 about another person who uses the provided Internet access services, to a third party  
12 for any purpose, including marketing, without the affirmative consent of the subscriber.

13 (b) Notwithstanding (a) of this section, an Internet service provider may  
14 disclose subscriber information without the affirmative consent of the subscriber to a

1 federal, state, or municipal law enforcement officer for the purpose of a law  
2 enforcement investigation.

3 (c) Notwithstanding AS 45.50.531(a), if an Internet service provider or an  
4 employee of the Internet service provider discloses subscriber information in violation  
5 of this section, the subscriber may bring a civil action against the Internet service  
6 provider to recover \$500 as damages for each disclosure. Each item of subscriber  
7 information that is disclosed is considered a separate disclosure for which \$500 may  
8 be awarded as damages. The \$500 award constitutes the value under this subsection  
9 of damages for the violation, and the subscriber is not required to prove actual  
10 damages. An action under this subsection is in addition to any other remedy allowed  
11 under AS 45.50.471 - 45.50.561.

12 (d) This section does not apply to disclosure of subscriber information by an  
13 Internet service provider if the application of it would violate 15 U.S.C. 6502(d)  
14 (Children's Online Privacy Protection Act of 1998).

15 (e) In this section,

16 (1) "affirmative consent" means a written statement signed by a  
17 subscriber authorizing an Internet service provider to distribute personal subscriber  
18 information to third parties for marketing or other purposes;

19 (2) "direct Internet access services" means direct transmission control  
20 protocol/Internet protocol (TCP/IP) services if the services

21 (A) include access to a domain name server and an electronic  
22 mail server; and

23 (B) are provided by dial-up modem connections using a  
24 telephone, the Integrated Services Digital Network, a digital subscriber line, or  
25 a coaxial cable, or by other means;

26 (3) "Internet service provider" means a person that engages in the  
27 business of providing direct Internet access services to other persons;

28 (4) "subscriber" means a person who contracts with an Internet service  
29 provider to receive direct Internet access services if the person's address provided to  
30 the Internet service provider is located in this state;

31 (5) "subscriber information" means information obtained from or as a

1 result of the contract between an Internet service provider and a subscriber; the term

2 (A) includes

3 (i) electronic mail address, social security number, date  
4 of birth, occupation, credit card information, debit card information,  
5 current address, prior addresses, telephone number, mother's maiden  
6 name, and income information; and

7 (ii) information gathered by means of tracking Internet  
8 usage, Internet protocol connection history, Internet preferences,  
9 computer equipment, computer software, or subscriber profiles;

10 (B) does not include aggregated data that cannot be used to  
11 identify a subscriber;

12 (6) "third party"

13 (A) means a person who is not the Internet service provider, an  
14 employee of the Internet service provider, or the subscriber;

15 (B) includes an organization that controls, is controlled by, or  
16 is under common control with the Internet service provider.

17 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section  
18 to read:

19 **APPLICABILITY.** AS 45.50.479, enacted by sec. 2 of this Act, applies to contracts  
20 between Internet service providers and subscribers if the contracts are in existence when this  
21 Act takes effect or are entered into on or after the effective date of this Act.