

HOUSE BILL NO. 401

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE ROKEBERG

Introduced: 2/16/00

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to computer networks and to electronic mail advertisements."**

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

3 *** Section 1.** AS 11.46.480(a) is amended to read:

4 (a) A person commits the crime of criminal mischief in the first degree if,
5 having no right to do so or any reasonable ground to believe the person has such a
6 right,

7 (1) with intent to cause a substantial interruption or impairment of a
8 service rendered to the public by a utility or by an organization **that** [WHICH] deals
9 with emergencies involving danger to life or property, **or rendered to the public by**
10 **another person over a computer network,** the person damages or tampers with
11 property of that utility, [OR] organization, **or person** and causes substantial
12 interruption or impairment of service to the public;

13 (2) with intent to damage property of another by the use of widely
14 dangerous means, the person damages property of another in an amount exceeding
15 \$100,000 by the use of widely dangerous means;

1 (3) the person intentionally damages an oil or gas pipeline or
 2 supporting facility; or

3 (4) with intent to cause physical injury to another person, the person
 4 [:]

5 (A) tampers with an item that is a food, drug, or cosmetic or a
 6 container for the item; or

7 (B) delivers, dispenses, or distributes an item described in (A)
 8 of this paragraph knowing that a person has tampered with the item.

9 * **Sec. 2.** AS 11.46.490(7) is amended to read:

10 (7) "utility" means an enterprise, whether publicly or privately owned
 11 or operated, **that** [WHICH] provides gas, electric, steam, water, sewer, or
 12 communications service, and any common carrier; **in this paragraph,**
 13 **"communications service" includes Internet service providers and the Internet**
 14 **and its ancillary services;**

15 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

16 (43) violating AS 45.50.479 (unsolicited electronic mail
 17 advertisements).

18 * **Sec. 4.** AS 45.50 is amended by adding a new section to read:

19 **Sec. 45.50.479. Provider's restriction on use of electronic mail service.** (a)

20 A registered user of an electronic mail service may not use or cause to be used the
 21 provider's service or equipment in violation of the provider's published policy
 22 prohibiting or restricting the use of its service or equipment for the initiation of
 23 unsolicited advertisements.

24 (b) A person may not, by initiating an unsolicited advertisement, use or cause
 25 to be used the service or equipment of an electronic mail service provider in violation
 26 of the provider's published policy prohibiting or restricting the use of its service or
 27 equipment to deliver unsolicited advertisements.

28 (c) This section may not be interpreted to require an electronic mail service
 29 provider to adopt a policy prohibiting or restricting the use of its service or equipment
 30 for the initiation or delivery of unsolicited advertisements.

31 (d) An electronic mail service provider is considered to have published the

1 provider's policy on unsolicited advertisements if the provider

2 (1) makes the policy available on request in written form at no charge
3 to the requester; or

4 (2) displays the policy through an on-line notice on the provider's
5 Internet home page or on a page accessible through a conspicuous link on the
6 provider's Internet home page.

7 (e) In this section,

8 (1) "advertisement" means an electronic mail message, the principal
9 purpose of which is to promote, directly or indirectly, the sale or other distribution of
10 real property, goods, or services;

11 (2) "electronic mail" means a message, a file, or other information that
12 is transmitted through a local, regional, or global network, regardless of whether the
13 message, file, or other information is

14 (A) viewed;

15 (B) stored for retrieval at a later time;

16 (C) printed onto paper or other similar material; or

17 (D) filtered or screened by a computer program that is designed
18 or intended to filter or screen items of electronic mail;

19 (3) "electronic mail service provider" or "provider" means a business
20 or organization qualified to do business in the state that provides registered users with
21 the ability to send or receive electronic mail;

22 (4) "initiation" of an unsolicited advertisement refers to the action by
23 the initial sender of the advertisement; it does not refer to the actions of any
24 intervening electronic mail service providers that may handle or retransmit the
25 electronic message;

26 (5) "network" means a network made up of one or more computers that
27 may be accessed by a modem, electronic or optical technology, or other similar means;

28 (6) "recipient" means a person who receives an item of electronic mail;

29 (7) "registered user" means an individual, corporation, or other person
30 that maintains an electronic mail address with an electronic mail service provider;

31 (8) "unsolicited advertisement" means an electronic mail advertisement

1 that is

2 (A) addressed to a recipient with whom the initiator does not
3 have an existing business or personal relationship; and

4 (B) not sent at the request of or with the express consent of the
5 recipient.