

CS FOR HOUSE BILL NO. 401(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/28/00

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE ROKEBERG

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 if the user has previously sent an unsolicited advertisement
 24 to 25 or more people or has previously been warned by the provider or recipient for
 25 sending unsolicited advertisements.

26 (b) A person may not, by initiating an unsolicited advertisement, use or cause
 27 to be used the service or equipment of an electronic mail service provider in violation
 28 of the provider's published policy prohibiting or restricting the use of its service or
 29 equipment to deliver unsolicited advertisements if the user has previously sent an
 30 unsolicited advertisement to 25 or more people or has previously been warned by the
 31 provider or a recipient for sending unsolicited advertisements.

1 (c) This section may not be interpreted to require an electronic mail service
2 provider to adopt a policy prohibiting or restricting the use of its service or equipment
3 for the initiation or delivery of unsolicited advertisements. This section does not limit
4 or restrict the authority of an electronic mail service provider to enforce its policies or
5 to prohibit or restrict the use of its services or equipment.

6 (d) An electronic mail service provider is considered to have published the
7 provider's policy on unsolicited advertisements if the provider

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

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

13 (e) In this section,

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

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

20 (A) viewed;

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

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

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

25 (3) "electronic mail service provider" or "provider" means a business
26 or organization qualified to do business in the state or a governmental entity that
27 provides registered users with the ability to send or receive electronic mail;

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

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

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

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

6 (8) "unsolicited advertisement" means an electronic mail advertisement
7 that is

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

10 (B) not sent at the request of or with the express consent of the
11 recipient.