

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 410
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE DYSON

Introduced: 2/25/00

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crime of unauthorized interception and distribution of**
2 **electronic messages; and relating to privacy of information provided to and**
3 **electronic messages handled by Internet service providers."**

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

5 *** Section 1.** AS 11.76 is amended by adding a new section to read:

6 **Sec. 11.76.125. Unauthorized interception and distribution of electronic**
7 **messages.** (a) A person who knowingly distributes to a third party, without authority
8 to do so from the writer or from the person to whom the message is addressed, an
9 electronic message that is not addressed to the person is guilty of a class A
10 misdemeanor.

11 (b) A person who knowingly intercepts, without authority to do so from the
12 writer or from the person to whom the message is addressed, an electronic message
13 that is not addressed to the person is guilty of a class B misdemeanor.

14 (c) In a prosecution under this section, it is an affirmative defense that

1 (1) the defendant was the supervisor of the writer of the message or of
2 the person to whom the message was addressed;

3 (2) the defendant was acting in accordance with written policies of the
4 employer concerning the sending or receipt of electronic messages or use of a
5 computer provided by the employer; and

6 (3) the computer used to write or receive the message was the property
7 of the employer.

8 (d) In a prosecution under (b) of this section, it is an affirmative defense that
9 the writer of the message or the intended recipient knowingly permitted the defendant
10 to have access to the contents of the message.

11 (e) In a prosecution under this section, it is an affirmative defense that the
12 writer of the message or the intended recipient was a minor for whose safety and
13 conduct the defendant was responsible at the time that the message was intercepted or
14 distributed.

15 (f) In this section, "distributes" includes delivery by any means, including
16 electronic mail.

17 * **Sec. 2.** AS 42 is amended by adding a new chapter to read:

18 **Chapter 50. Computers and Electronic Data.**

19 **Sec. 42.50.010. Privacy provisions relating to Internet service subscriptions**
20 **and electronic mail.** (a) When an Internet service provider activates a new account
21 for a subscriber, the service provider shall directly notify the subscriber of the service
22 provider's policies regarding access to information in the possession or control of the
23 service provider. The service provider may provide the notification by mail or by
24 electronic mail, addressed to the subscriber's address and to the subscriber's personal
25 attention. The notification must include

26 (1) a description of the personal identifying information concerning the
27 subscriber in the possession of the service provider to which access will be

28 (A) available without restriction to users of the Internet;

29 (B) restricted by the service provider;

30 (2) the circumstances under which the service provider will disclose
31 contents of a subscriber's electronic mail or web site traffic to law enforcement

1 officials;

2 (3) the circumstances under which the network administrator or network
3 contractor of the service provider is permitted to review the contents of the
4 subscriber's electronic mail or web site traffic;

5 (4) the service provider's policy with regard to the sale or redistribution
6 of subscriber information.

7 (b) A subscriber may request, in writing or by electronic mail, that the
8 subscriber's Internet service provider hold the subscriber's identifying information
9 confidential. An Internet service provider that has received a request from a subscriber
10 to hold the subscriber's identifying information confidential may not

11 (1) sell the information; or

12 (2) redistribute the information unless the redistribution is necessary to
13 ensure the proper functioning of the network.

14 (c) An Internet service provider that sells a subscriber's identifying information
15 after the provider has received a request that the information be held confidential is
16 liable to the subscriber for the subscriber's damages or for liquidated damages in the
17 amount of \$250.

18 (d) In this section, "network contractor" means the person or entity paid
19 directly by the service provider to supply and maintain bandwidth, server space, and
20 network support software.