

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 604

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Control” and substitute “Deterrent”; in line 5, strike “Internet” and substitute “electronic mail”; in line 6, after “from” insert “materially”; in line 12, strike “felonies;” and substitute “misdemeanors; prohibiting the provision or selection of certain electronic mail addresses under certain circumstances;”; in line 13, after “circumstances;” insert “providing for additional penalties and fines under certain circumstances;”; in line 17, after “circumstances;” insert “authorizing the Attorney General to enforce criminal violations of this Act in circuit court or the District Court; providing for the construction of this Act;”; and in line 18, strike “Control” and substitute “Deterrent”.

AMENDMENT NO. 2

On page 2, after line 11, insert:

“(4) “ELECTRONIC MAIL SERVICE PROVIDER” MEANS ANY PERSON, INCLUDING AN INTERNET SERVICE PROVIDER, THAT IS AN INTERMEDIARY IN SENDING AND RECEIVING ELECTRONIC MAIL AND THAT PROVIDES TO THE PUBLIC THE ABILITY TO SEND OR RECEIVE ELECTRONIC MAIL TO OR FROM AN ELECTRONIC MAIL ACCOUNT OR ONLINE USER ACCOUNT.”;

in lines 12 and 14, strike “(4)” and “(5)”, respectively, and substitute “(5)” and “(6)”, respectively; in line 18, after “MESSAGE” insert “, AND TECHNICAL INFORMATION THAT AUTHENTICATES THE SENDER OF AN ELECTRONIC MAIL MESSAGE FOR NETWORK SECURITY OR NETWORK MANAGEMENT PURPOSES”; in line 19, strike “(6) (I)” and substitute “(7)”; in line 22, after “MESSAGE” insert “AND DOES NOT INCLUDE ACTIONS THAT CONSTITUTE ROUTINE CONVEYANCE OF SUCH MESSAGE”; strike in their entirety lines 23 through 28, inclusive; in lines 29 and 32, strike “(7)” and “(8)”, respectively, and substitute “(8)” and “(9)”, respectively; and strike in their entirety lines 35 through 37, inclusive.

(Over)

AMENDMENT NO. 3

On page 3, strike in their entirety lines 1 through 4, inclusive; strike beginning with the colon in line 12 down through “(III)” in line 17; after line 17, insert:

“(12) “ROUTINE CONVEYANCE” MEANS THE TRANSMISSION, ROUTING, RELAYING, HANDLING, OR STORING, THROUGH AN AUTOMATIC TECHNICAL PROCESS, OF AN ELECTRONIC MAIL MESSAGE FOR WHICH ANOTHER PERSON HAS IDENTIFIED THE RECIPIENTS OR PROVIDED THE RECIPIENT ADDRESSES.”;

in line 18, after “NOT” insert “CONSPIRE TO OR KNOWINGLY”; in line 21, strike “INTERNET” and substitute “ELECTRONIC MAIL”; in line 23, after “(2)” insert “MATERIALLY”; in line 26, after “THAT” insert “MATERIALLY”; in line 30, after “FROM” insert “ONE OR”; in the same line, strike the second “OR”; in line 31, strike “CONSPIRE TO OR”; and in line 34, after “ADDRESSES” insert “;”

(5) ACCESS A PROTECTED COMPUTER WITHOUT AUTHORIZATION, AND INTENTIONALLY INITIATE THE TRANSMISSION OF MULTIPLE ELECTRONIC MAIL ADVERTISEMENTS FROM OR THROUGH THE PROTECTED COMPUTER;

(6) VIOLATE ITEM (1), (2), (3), (4), OR (5) OF THIS SUBSECTION BY PROVIDING OR SELECTING ADDRESSES TO WHICH A MESSAGE WAS TRANSMITTED, KNOWING THAT:

(I) THE ELECTRONIC MAIL ADDRESSES OF THE RECIPIENTS WERE OBTAINED USING AN AUTOMATED MEANS FROM AN INTERNET WEBSITE OR PROPRIETARY ONLINE SERVICE OPERATED BY ANOTHER PERSON; AND

(II) THE WEBSITE OR ONLINE SERVICE INCLUDED, AT THE TIME THE ADDRESSES WERE OBTAINED, A NOTICE STATING THAT THE OPERATOR OF THE WEBSITE OR ONLINE SERVICE WILL NOT TRANSFER ADDRESSES MAINTAINED BY THE WEBSITE OR ONLINE SERVICE TO ANY OTHER PARTY FOR THE PURPOSES OF INITIATING OR ENABLING OTHERS TO INITIATE ELECTRONIC MAIL MESSAGES; OR

(7) VIOLATE ITEM (1), (2), (3), (4), OR (5) OF THIS SUBSECTION BY PROVIDING OR SELECTING ELECTRONIC MAIL ADDRESSES OF RECIPIENTS OBTAINED USING AN AUTOMATED MEANS THAT GENERATES POSSIBLE ELECTRONIC MAIL ADDRESSES BY COMBINING NAMES, LETTERS, OR NUMBERS

INTO NUMEROUS PERMUTATIONS”.

AMENDMENT NO. 4

On page 4, in lines 1, 4, 18, 22, and 27, in each instance, strike “SUBSECTION (B)” and substitute “SUBSECTION (B)(1), (2), (3), (4), OR (5)”; in lines 2, 8, 15, 20, and 24, in each instance, strike “FELONY” and substitute “MISDEMEANOR”; in lines 3, 10, 17, and 21, in each instance, strike the semicolon and substitute a period; in line 26, strike “; AND” and substitute a period; and after line 33, insert:

“(7) A PERSON WHO VIOLATES SUBSECTION (B)(6) OR (7) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH.”.

AMENDMENT NO. 5

On page 5, in line 3, after “ACTION” insert “IN A CIRCUIT COURT OR THE DISTRICT COURT”; and after line 11, insert:

“(4) THE ATTORNEY GENERAL MAY ENFORCE CRIMINAL VIOLATIONS OF THIS SECTION IN A CIRCUIT COURT OR DISTRICT COURT.

(F) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO HAVE ANY EFFECT ON THE LAWFULNESS OF THE ADOPTION, IMPLEMENTATION, OR ENFORCEMENT BY AN ELECTRONIC MAIL SERVICE PROVIDER OF A POLICY OF DECLINING TO TRANSMIT, ROUTE, RELAY, HANDLE, OR STORE CERTAIN TYPES OF ELECTRONIC MAIL MESSAGES UNDER ANY OTHER PROVISION OF LAW.”.