

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1320

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Control” and substitute “Deterrence”; in line 5, strike “Internet” and substitute “electronic mail”; in line 12, after “misdemeanors;” insert “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; providing for the construction of this Act;”; and in line 18, strike “Control” and substitute “Deterrence”.

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; and in lines 29 and 32, strike “(7)” and “(8)”, respectively, and substitute “(8)” and “(9)”, respectively.

(Over)

On pages 2 and 3, strike beginning with line 35 on page 2 through line 4 on page 3, inclusive, and substitute:

“(10) “MATERIALLY FALSIFIED” MEANS ALTERED OR CONCEALED IN A MANNER THAT WOULD IMPAIR THE ABILITY OF ONE OF THE FOLLOWING TO IDENTIFY, LOCATE, OR RESPOND TO A PERSON WHO INITIATED AN ELECTRONIC MAIL MESSAGE OR TO INVESTIGATE AN ALLEGED VIOLATION OF THIS SECTION:

(I) A RECIPIENT OF THE MESSAGE;

(II) AN INTERNET ACCESS SERVICE PROCESSING THE MESSAGE ON BEHALF OF A RECIPIENT;

(III) A PERSON ALLEGING A VIOLATION OF THIS SECTION; OR

(IV) A LAW ENFORCEMENT AGENCY.”.

AMENDMENT NO. 3

On page 3, in lines 5 and 12, strike “(10)” and “(11)”, respectively, and substitute “(11)” and “(12)”, respectively; strike beginning with the colon in line 12 down through “(III)” in line 17; after line 17, insert:

“(13) “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 RECIPIENTS’ ADDRESSES.”;

in line 18, after “NOT” insert “CONSPIRE TO OR”; in line 19, after “COMPUTER” insert “OF ANOTHER”; in line 21, strike “INTERNET” and substitute “ELECTRONIC MAIL”; in line 27, strike “FIVE” and substitute “15”; in line 30, after “FROM” insert “ONE OR”; in line 31, strike “OR”; in line 32, strike “CONSPIRE TO OR”; and in line 35, after “ADDRESSES” insert “;”

(5) ACCESS A PROTECTED COMPUTER OF ANOTHER 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 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 4, strike “FOR THE STATE”; and after line 11, insert:

“(4) THE ATTORNEY GENERAL MAY ENFORCE CRIMINAL VIOLATIONS OF THIS SECTION.

(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.”.