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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1198** Session of  
2007

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INTRODUCED BY A. WILLIAMS, LAVALLE, RAFFERTY, LOGAN, FONTANA,  
O'PAKE, TARTAGLIONE, KASUNIC, WASHINGTON, WOZNIAK, MUSTO,  
ORIE, DINNIMAN, KITCHEN, COSTA AND C. WILLIAMS,  
DECEMBER 21, 2007

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REFERRED TO JUDICIARY, DECEMBER 21, 2007

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for unlawful  
3 transmission of electronic mail.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 7661 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 7661. Unlawful transmission of electronic mail.

9 (a) Offense defined.--A person commits the offense of  
10 unlawful transmission of electronic mail if he:

11 (1) Uses a computer or computer network without  
12 authority and with the intent to falsify or forge electronic  
13 mail transmission information or other routine information in  
14 any manner in connection with the transmission of unsolicited  
15 electronic mail through or into the computer network of an  
16 electronic mail service provider, Internet service provider  
17 or its subscribers.

1           (2) Sells, gives or otherwise distributes or possesses  
2 with the intent to sell, give or distribute computer software  
3 which:

4           (i) is primarily designed or produced for the  
5 purpose of facilitating or enabling the falsification of  
6 electronic mail transmission information or other routing  
7 information;

8           (ii) has only limited commercially significant  
9 purpose or use other than to facilitate or to enable the  
10 falsification of electronic mail transmission information  
11 or other routing information; or

12           (iii) is marketed by that person or another person  
13 acting in concert with that person with that person's  
14 knowledge for the use in facilitating or enabling the  
15 falsification of electronic mail transmission information  
16 or other routing information.

17           (3) Establishes an Internet website to publish criminal  
18 records or court documents that are directly or indirectly  
19 related to plea agreements and sentencing documents, which  
20 may reveal the name or identity of an individual who has  
21 cooperated as a witness for the Commonwealth.

22 (b) Grading.--

23           (1) Except as provided in paragraphs (2) and (3),  
24 unlawful transmission of electronic mail is a misdemeanor of  
25 the third degree punishable by a fine of not more than  
26 \$2,500.

27           (2) If there is damage to the property of another valued  
28 at \$2,500 or more caused by that person's reckless disregard  
29 for the consequences of his act in violation of this section,  
30 unlawful transmission of electronic mail is a misdemeanor of

1 the first degree punishable by a fine of not more than  
2 \$10,000.

3 (3) If there is damage to the property of another valued  
4 at \$2,500 or more caused by that person's malicious act in  
5 violation of this section, unlawful transmission of  
6 electronic mail is a felony of the third degree punishable by  
7 a fine of not more than \$15,000.

8 (4) If there is serious bodily injury or endangerment to  
9 a person who is or has served as a witness for the  
10 Commonwealth, as a result of publication of information under  
11 subsection (a)(3), it is a felony of the second degree  
12 punishable by a fine of not more than \$20,000.

13 (5) If there is death to a person who is or has served  
14 as a witness for the Commonwealth, as a result of publication  
15 of information under subsection (a)(3), it is a felony of the  
16 first degree punishable by a fine of not more than \$25,000.

17 (c) Rights preserved.--Nothing in this section shall be  
18 construed to:

19 (1) Establish any liability by reason of terms or  
20 conditions adopted by or technical measures implemented by an  
21 electronic mail service provider or Internet service provider  
22 doing business in this Commonwealth to prevent the  
23 transmission of unsolicited electronic mail in violation of  
24 this section.

25 (2) Interfere with or prohibit terms or conditions in a  
26 contract or license related to computers, computer data,  
27 computer networks, computer operations, computer programs,  
28 computer services or computer software.

29 (d) Definitions.--As used in this section, the term  
30 "electronic mail" shall include facsimiles and wireless

- 1 advertisements in addition to other electronic mail.
- 2 Section 2. This act shall take effect in 60 days.