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**HOUSE BILL NO. 1797**

Offered January 14, 2009

Prefiled January 9, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-152.3:2, relating to electronic mail (spam); penalty.*

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 18.2-152.3:2 as follows:***§ 18.2-152.3:2. Transmission of unsolicited bulk electronic mail (spam); penalty.**A. A person is guilty of a Class 1 misdemeanor if he:**1. Uses a computer or computer network with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail (spam) through or into the computer network of an EMSP that has implemented anti-spam security measures; or**2. Knowingly sells, gives, or otherwise distributes or possesses with the intent to sell, give, or distribute software that (i) is primarily designed or produced for the purpose of facilitating or enabling the falsification of the transmission information or other routing information of spam in an effort to bypass anti-spam security measures of an EMSP; (ii) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of the transmission information or other routing information of spam; or (iii) is marketed by that person acting alone or with another for use in facilitating or enabling the falsification of the transmission information or other routing information of spam.**B. A person is guilty of a Class 6 felony if he commits a violation of subsection A and:**1. The volume of spam transmitted exceeded 10,000 attempted recipients in any 24-hour time period, 100,000 attempted recipients in any 30-day time period, or one million attempted recipients in any one-year time period; or**2. The revenue generated from a specific spam transmission exceeded \$1,000 or the total revenue generated from all spam transmitted through any EMSP exceeded \$50,000.**C. A person is guilty of a Class 6 felony if he knowingly hires, employs, uses, or permits any minor to assist in the transmission of spam in violation of subdivision B 1 or B 2.***2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

HB1797