

970621324

HOUSE BILL NO. 1638**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by Delegate Marshall
on January 27, 1997)

(Patron Prior to Substitute—Delegate Marshall)

A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 39, consisting of sections numbered 59.1-467 and 59.1-468, relating to trade and commerce; information infrastructure providers; restrictions on use of services; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 39, consisting of sections numbered 59.1-467 and 59.1-468, as follows:

CHAPTER 39.**INFORMATION INFRASTRUCTURE PROVIDERS; RESTRICTIONS ON USE OF SERVICES.**

§ 59.1-467. Definitions.

As used in this chapter:

"Information infrastructure service" or "service" means (i) any on-line service which provides access to the Internet, or (ii) any bulletin board service.

"Provider" means any person providing an information infrastructure service.

§ 59.1-468. Violation of provider's service restrictions prohibited.

A. Any person who, as a registered or trial subscriber to or as an authorized user of an information infrastructure service furnished to the general public, utilizes a provider's service and knowingly breaches or violates any express content or utilization restriction thereof (i) which such provider has placed on the use of such service and (ii) of which such person has received notice prior to utilizing such service shall, for each breach or violation, be liable in liquidated damages of \$500 to such provider, or for actual damages, whichever amount is greater. For the purposes of this subsection, notice of a provider's restrictions shall be sufficient if contained in electronic text easily accessible upon accessing any such provider's service.

B. The remedies provided pursuant to this chapter are (i) cumulative and not exclusive, (ii) in addition to any other remedy provided by law, and (iii) not intended to limit the rights or remedies of any third parties injured by any person's breach or violation of a provider's express content or utilization restriction.