

AMENDED IN SENATE JANUARY 20, 1998

AMENDED IN SENATE JANUARY 12, 1998

AMENDED IN SENATE JANUARY 5, 1998

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 597

Introduced by Senator Peace

February 24, 1997

An act to add Chapter 6 (commencing with Section 17300) to Part 2 of Division 7 of the Business and Professions Code, relating to electronic commerce.

LEGISLATIVE COUNSEL'S DIGEST

SB 597, as amended, Peace. Internet use.

(1) Existing law governing advertising prohibits a person from soliciting the sale of goods either in person or over the telephone without giving identifying information. It is also unlawful, among other things, for a person soliciting the sale of goods either in person or over the telephone to use a scheme that misrepresents the solicitor's true status or mission for the purpose of making the sale.

This bill would provide that any solicitation, transaction, or communication made over the Internet shall be unlawful if that solicitation, transaction, or communication would be unlawful under specified provisions of law if made in person, by mail, by means of a telephone, or by any other means of communication. The bill would provide that the same criminal or civil penalties or remedies applicable to an

unlawful solicitation, transaction, or communication would also apply to an unlawful solicitation, transaction, or communication made over the Internet. This bill would also provide that any person who makes an unlawful solicitation, transaction, or other communication over the Internet that originates from outside the state *and who actually sells a product or service to a resident of the state* shall, to the extent permitted under the state civil and criminal “long-arm” jurisdiction laws, be subject to the personal jurisdiction, and that person’s property located in this state shall be subject to the “in rem” jurisdiction, of the courts of this state in any relevant civil or criminal action. *It would also declare legislative intent in this regard.*

Because this bill would expand the scope of existing crimes, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that
 2 the Internet is a collection of interconnected computers
 3 and communications networks that is used for
 4 commercial, educational, and recreational purposes. Use
 5 of the Internet is growing rapidly, doubling every four
 6 months according to some estimates. The number of
 7 persons using the Internet has doubled every year for the
 8 past several years.

9 SEC. 2. Chapter 6 (commencing with Section 17300)
 10 is added to Part 2 of Division 7 of the Business and
 11 Professions Code, to read:

12



CHAPTER 6. UNLAWFUL USE OF THE INTERNET

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2
3 17300. (a) Any solicitation, transaction, or other
4 communication made over the Internet, as defined in
5 Section 17538, shall be unlawful if it would be unlawful
6 under Chapter 5 (commencing with Section 17200),
7 Chapter 6.5 (commencing with Section 17350), or
8 Chapter 7 (commencing with Section 17360) of Part 2, or
9 Chapter 1 (commencing with Section 17500) of Part 3, for
10 that solicitation, transaction, or other communication to
11 be made in person, by mail, by means of a telephone, or
12 by any other means of communication. The same
13 criminal or civil penalties or remedies applicable to an
14 unlawful solicitation, transaction, or other
15 communication also apply to an unlawful solicitation,
16 transaction, or communication made over the Internet.

17 (b) (1) Any person who violates this section by
18 making an unlawful solicitation, transaction, or other
19 communication over the Internet that originates from
20 outside the state *and who actually sells a product or*
21 *service to a resident of the state* shall, to the extent
22 permitted under Section 410.10 of the Code of Civil
23 Procedure, be subject to the personal jurisdiction, and
24 that person's property located within this state shall be
25 subject to the "in rem" jurisdiction, of the courts of this
26 state in any relevant civil action. In addition, that person
27 shall, to the extent permitted under Section 778 of the
28 Penal Code, be subject to the jurisdiction of the courts of
29 this state in any relevant criminal action.

30 (2) *Notwithstanding paragraph (1), it is not the intent*
31 *of the Legislature to either limit jurisdiction in any other*
32 *application of, or to require actual sale as an element of*
33 *any claim under, this section, Chapter 5 (commencing*
34 *with Section 17200) of Part 2, or Chapter 1 (commencing*
35 *with Section 17500) of Part 3.*

36 SEC. 3. No reimbursement is required by this act
37 pursuant to Section 6 of Article XIII B of the California
38 Constitution because the only costs that may be incurred
39 by a local agency or school district will be incurred
40 because this act creates a new crime or infraction,



1 eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition
4 of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

6 Notwithstanding Section 17580 of the Government
7 Code, unless otherwise specified, the provisions of this act
8 shall become operative on the same date that the act
9 takes effect pursuant to the California Constitution.

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