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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2374 Session of  
2014

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INTRODUCED BY NEUMAN, LUCAS, SAINATO, PASHINSKI, O'BRIEN,  
BRIGGS, V. BROWN, BROWNLEE, KOTIK, KINSEY, MILLARD, BOBACK,  
SNYDER, SCHLOSSBERG, REESE, HAGGERTY, KAVULICH, O'NEILL,  
CUTLER, BAKER, MCGEEHAN, DEAN, MUNDY, HARHAI, DAVIS,  
GODSHALL, CALTAGIRONE, D. COSTA, COHEN, BIZZARRO, MAHONEY,  
SWANGER, YOUNGBLOOD, READSHAW, MATZIE, SABATINA, KORTZ,  
TOOHIL, SCHREIBER, CRUZ AND MURT, JUNE 23, 2014

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 23, 2014

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in computer offenses, providing for  
3 the offense of phishing and for protection from liability  
4 under certain circumstances.

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

7 Section 1. Chapter 76 of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a subchapter to read:

9 SUBCHAPTER F

10 PHISHING

11 Sec.

12 7671. Definitions.

13 7672. Phishing.

14 7673. Protection from liability.

15 7674. Civil relief.

16 § 7671. Definitions.

1 The following words and phrases when used in this subchapter  
2 shall have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 "Communication." A message or data conveyed by oral, written  
5 or electronic means, including telephone, electronic mail,  
6 Internet, facsimile, telex, wireless communication, web page or  
7 similar transmission.

8 "Identifying information." As defined in 18 Pa.C.S. §  
9 4120(f) (relating to identity theft).

10 "Interactive computer service." An information service or  
11 system that enables computer access by multiple users to a  
12 computer server, including specifically a service or system that  
13 provides access to the Internet or to software services  
14 available on a server, and such systems operated or services  
15 offered by a library or educational institution.

16 "Legitimate business." A business that is registered to do  
17 business under the law of any jurisdiction or any of its  
18 subsidiaries.

19 "Web page." A location, with respect to the World Wide Web,  
20 that has a single uniform resource locator or other single  
21 location with respect to the Internet.

22 § 7672. Phishing.

23 (a) Offense of phishing.--An actor commits the offense of  
24 phishing under the following circumstances if the actor, with  
25 the intent to defraud or injure anyone or with the knowledge  
26 that a fraud is being facilitated or that an injury is being  
27 perpetrated by anyone:

28 (1) makes a communication under false pretenses by or on  
29 behalf of a legitimate business, without the authority or  
30 approval of the business;

1       (2) uses the communication to induce, request or solicit  
2       a person to provide identifying information; and

3       (3) the person provides the identifying information to  
4       the actor or an accomplice of the actor.

5       (b) Additional violations.--It shall also be a violation of  
6       this section for a person to sell or distribute any identifying  
7       information obtained in violation of subsection (a) with the  
8       intent to defraud or injure anyone or with the knowledge that a  
9       fraud is being facilitated or that an injury is being  
10       perpetrated by anyone.

11       (c) Venue.--An offense committed under this section may be  
12       deemed to have been committed at any of the following locations:

13       (1) The place where a person possessed, obtained or used  
14       the identifying information of another person under false  
15       pretenses.

16       (2) The residence of the person whose identifying  
17       information has been obtained or used under false pretenses.

18       (3) The business or employment address of the person  
19       whose identifying information has been obtained or used under  
20       false pretenses, if the identifying information at issue is  
21       associated with the person's business or employment.

22       (d) Grading.--A violation of subsection (a) shall be graded  
23       as a felony of the third degree. A violation of subsection (b)  
24       shall be graded as a felony of the second degree.

25       (e) Concurrent jurisdiction to prosecute.--In addition to  
26       the authority conferred upon the Attorney General by the act of  
27       October 15, 1980 (P.L.950, No.164), known as the Commonwealth  
28       Attorneys Act, the Attorney General shall have the authority to  
29       investigate and to institute criminal proceedings for any  
30       violation of this section or any series of violations involving

1 more than one county of this Commonwealth or another state. No  
2 person charged with a violation of this section by the Attorney  
3 General shall have standing to challenge the authority of the  
4 Attorney General to investigate or prosecute the case, and if  
5 the challenge is made, the challenge shall be dismissed and no  
6 relief shall be made available in the courts of this  
7 Commonwealth to the person making this challenge.

8 § 7673. Protection from liability.

9 No interactive computer service provider may be held liable  
10 under any provision of the laws of this Commonwealth or of one  
11 of its political subdivisions for removing or disabling access  
12 to content that resides on an Internet website or other online  
13 location controlled or operated by the provider which the  
14 provider believes in good faith is used to engage in a violation  
15 of this subchapter.

16 § 7674. Civil relief.

17 (a) Civil action.--An interactive computer service provider  
18 and a business shall each have a civil cause of action against  
19 any person who utilizes the interactive computer service to make  
20 a communication under false pretenses by or on behalf of the  
21 business, without the authority of the business, for the purpose  
22 of inducing, requesting or soliciting a person to provide  
23 identifying information.

24 (b) Civil remedies.--A person permitted to bring a civil  
25 action under this section may do any of the following:

26 (1) Seek injunctive relief to restrain the violator from  
27 continuing the violation.

28 (2) Recover damages in an amount equal to the greater of  
29 the following:

30 (i) Actual damages arising from the violation.

1           (ii) Statutory damages, as determined by the court,  
2           of not more than \$100,000 for each violation of the same  
3           nature.

4           (3) Obtain both injunctive relief and damages as  
5           provided in this subsection.

6           (c) Treble damages.--The court may increase an award of  
7           actual damages in an action brought under this section to an  
8           amount not to exceed three times the actual damages sustained if  
9           the court finds that the violations have occurred with a  
10           frequency as to constitute a course of conduct.

11           (d) Attorney fees.--A person who prevails in an action filed  
12           under this section shall be entitled to recover reasonable  
13           attorneys fees and court costs.

14           (e) Venue.--An action under this section may be brought:

15           (1) At the residence or principal place of business of a  
16           person who receives a communication.

17           (2) The principal place of business of the interactive  
18           computer service.

19           (3) Such other location as provided for by the  
20           Pennsylvania Rules of Civil Procedure.

21           Section 2. This act shall take effect in 60 days.