

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 114 Session of
2007

INTRODUCED BY PICCOLA, WONDERLING, COSTA, PUNT, RAFFERTY, WAUGH,
O'PAKE, BRUBAKER, ROBBINS, C. WILLIAMS, KITCHEN, GREENLEAF,
FERLO, REGOLA, STACK, ORIE, RHOADES, BROWNE, EARLL, MELLOW
AND LOGAN, MARCH 5, 2007

REFERRED TO COMMUNICATIONS AND TECHNOLOGY, MARCH 5, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for the offense of phishing.

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

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

7 SUBCHAPTER F

8 PHISHING

9 Sec.

10 7671. Definitions.

11 7672. Phishing.

12 7673. Good Samaritan protection.

13 7674. Civil relief.

14 § 7671. Definitions.

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

1 "Communication." A message conveyed by oral, written or
2 electronic means, including telephone, electronic mail,
3 Internet, facsimile, telex, wireless communication or similar
4 transmission.

5 "Identifying information." Any document, photographic,
6 pictorial or computer image of another person, or any fact used
7 to establish identity, including any of the following:

8 (1) Name.

9 (2) Birth date.

10 (3) Social Security number.

11 (4) Driver's license number or nondriver governmental
12 identification number.

13 (5) Telephone number.

14 (6) Checking or savings account number.

15 (7) Student identification number.

16 (8) Employee or payroll number.

17 (9) Electronic signature.

18 "Legitimate business." A business that is registered to do
19 business under the law of any jurisdiction.

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

22 § 7672. Phishing.

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

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

1 (2) the actor uses the communication to induce, request
2 or solicit 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 or used the
14 identifying information of another person under false
15 pretenses.

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

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

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

27 (e) Concurrent jurisdiction to prosecute.--In addition to
28 the authority conferred upon the Attorney General by the act of
29 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
30 Attorneys Act, the Attorney General shall have the authority to

investigate and to institute criminal proceedings for any violation of this section or any series of violations involving more than one county of this Commonwealth or another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if the challenge is made, the challenge shall be dismissed and no relief shall be made available in the courts of this Commonwealth to the person making this challenge.

§ 7673. Good Samaritan protection.

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

§ 7674. Civil relief.

(a) Civil actions for relief.--Any of the following persons may bring a civil action against a person who violates this subchapter.

(1) An Internet service provider who is adversely affected by the violation.

(2) An owner of a web page or a trademark that is used without authorization in the violation.

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

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

(2) Recover damages in an amount equal to the greater of

1 the following:

2 (i) Actual damages arising from the violation.

3 (ii) One hundred thousand dollars for each violation
4 of the same nature.

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

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

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

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