
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1401 Session of
2002

INTRODUCED BY CORMAN, D. WHITE, ERICKSON, BELL, BOSCOLA,
BRIGHTBILL, DENT, ORIE, HOLL, HUGHES, LAVALLE, LEMMOND,
MUSTO, LOGAN, O'PAKE, RHOADES, TARTAGLIONE, TOMLINSON, WAUGH,
C. WILLIAMS AND STACK, APRIL 29, 2002

REFERRED TO COMMUNICATIONS AND HIGH TECHNOLOGY, APRIL 29, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the interception
3 of wire, electronic or oral communications; and providing for
4 offenses relating to computers.

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

7 Section 1. Section 3933 of Title 18 of the Pennsylvania
8 Consolidated Statutes is repealed.

9 Section 2. Section 5708(2) of Title 18 is amended to read:

10 § 5708. Order authorizing interception of wire, electronic or
11 oral communications.

12 The Attorney General, or, during the absence or incapacity of
13 the Attorney General, a deputy attorney general designated in
14 writing by the Attorney General, or the district attorney or,
15 during the absence or incapacity of the district attorney, an
16 assistant district attorney designated in writing by the
17 district attorney of the county wherein the interception is to
18 be made, may make written application to any Superior Court

1 judge for an order authorizing the interception of a wire,
2 electronic or oral communication by the investigative or law
3 enforcement officers or agency having responsibility for an
4 investigation involving suspected criminal activities when such
5 interception may provide evidence of the commission of any of
6 the following offenses, or may provide evidence aiding in the
7 apprehension of the perpetrator or perpetrators of any of the
8 following offenses:

9 * * *

10 (2) Under this title, where such offense is dangerous to
11 life, limb or property and punishable by imprisonment for
12 more than one year:

13 Section 910 (relating to manufacture, distribution or
14 possession of devices for theft of telecommunications
15 services)

16 Section 3925 (relating to receiving stolen property)

17 Section 3926 (relating to theft of services)

18 Section 3927 (relating to theft by failure to make
19 required disposition of funds received)

20 [Section 3933 (relating to unlawful use of computer)]

21 Section 4108 (relating to commercial bribery and
22 breach of duty to act disinterestedly)

23 Section 4109 (relating to rigging publicly exhibited
24 contest)

25 Section 4117 (relating to insurance fraud)

26 Section 4305 (relating to dealing in infant children)

27 Section 4902 (relating to perjury)

28 Section 4909 (relating to witness or informant taking
29 bribe)

30 Section 4911 (relating to tampering with public

1 records or information)

2 Section 4952 (relating to intimidation of witnesses
3 or victims)

4 Section 4953 (relating to retaliation against witness
5 or victim)

6 Section 5101 (relating to obstructing administration
7 of law or other governmental function)

8 Section 5111 (relating to dealing in proceeds of
9 unlawful activities)

10 Section 5121 (relating to escape)

11 Section 5504 (relating to harassment by communication
12 or address)

13 Section 5902 (relating to prostitution and related
14 offenses)

15 Section 5903 (relating to obscene and other sexual
16 materials and performances)

17 Section 7313 (relating to buying or exchanging
18 Federal food order coupons, stamps, authorization cards
19 or access devices)

20 Chapter 76 (relating to computer offenses)

21 * * *

22 Section 3. Title 18 is amended by adding a chapter to read:

23 CHAPTER 76

24 COMPUTER OFFENSES

25 Sec.

26 7601. Definitions.

27 7602. Jurisdiction.

28 7603. Unlawful use of computer and other computer crimes.

29 7604. Disruption of service.

30 7605. Computer theft.

- 1 7606. Unlawful duplication.
- 2 7607. Computer trespass.
- 3 7608. Distribution of computer virus.
- 4 7609. Restitution.
- 5 7510. Concurrent jurisdiction.
- 6 § 7601. Definitions.

7 The following words and phrases when used in this chapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Access." To intercept, instruct, communicate with, store
11 data in, retrieve data from or otherwise make use of any
12 resources of a computer, computer system, computer network or
13 database.

14 "Computer." An electronic, magnetic, optical, hydraulic,
15 organic or other high speed data processing device or system
16 which performs logic, arithmetic or memory functions and
17 includes all input, output, processing, storage, software or
18 communication facilities which are connected or related to the
19 device in a system or network.

20 "Computer network." The interconnection of two or more
21 computers through the usage of satellite, microwave, line or
22 other communication medium.

23 "Computer program." An ordered set of instructions or
24 statements and related data that, when automatically executed in
25 actual or modified form in a computer system, causes it to
26 perform specified functions.

27 "Computer software." A set of computer programs, procedures
28 or associated documentation concerned with the operation of a
29 computer system.

30 "Computer system." A set of related, connected or

1 unconnected computer equipment, devices and software.

2 "Computer virus." A computer program copied to, created on
3 or installed to a computer, computer network, computer program,
4 computer software or computer system without the informed
5 consent of the owner of the computer, computer network, computer
6 program, computer software or computer system that may replicate
7 itself and that causes or can cause unauthorized activities
8 within or by the computer, computer network, computer program,
9 computer software or computer system.

10 "Database." A representation of information, knowledge,
11 facts, concepts or instructions which are being prepared or
12 processed or have been prepared or processed in a formalized
13 manner and are intended for use in a computer, computer system
14 or computer network, including, but not limited to, computer
15 printouts, magnetic storage media, punched cards or data stored
16 internally in the memory of the computer.

17 "Financial instrument." Includes, but is not limited to, any
18 check, draft, warrant, money order, note, certificate of
19 deposit, letter of credit, bill of exchange, credit or debit
20 card, transaction authorization mechanism, marketable security
21 or any computer system representation thereof.

22 "Property." Includes, but is not limited to, financial
23 instruments, computer software and programs in either machine or
24 human readable form, and anything of value, tangible or
25 intangible.

26 "Telecommunication device." Any type of instrument, device,
27 machine or equipment which is capable of transmitting,
28 acquiring, decrypting or receiving any telephonic, electronic,
29 data, Internet access, audio, video, microwave or radio
30 transmissions, signals, communications or services, including

1 the receipt, acquisition, transmission or decryption of all such
2 communications, transmissions, signals or services over any
3 cable television, telephone, satellite, microwave, radio or
4 wireless distribution system or facility, or any part, accessory
5 or component thereof, including any computer circuit, security
6 module, smart card, software, computer chip, electronic
7 mechanism or other component, accessory or part which is capable
8 of facilitating the transmission, decryption, acquisition or
9 reception of all such communications transmissions, signals or
10 services.

11 "World Wide Web." Includes, but is not limited to, a
12 computer server-based file archive accessible, over the
13 Internet, using a hypertext transfer protocol, file transfer
14 protocol or other similar protocols.

15 § 7602. Jurisdiction.

16 An offense under this chapter may be deemed to have been
17 committed either at the place where conduct constituting an
18 element of the offense occurred or at the place where the result
19 which is an element of the offense occurred within this
20 Commonwealth, in accordance with section 102 (relating to
21 territorial applicability). It shall be no defense to a
22 violation of this chapter that some of the acts constituting the
23 offense occurred outside of this Commonwealth.

24 § 7603. Unlawful use of computer and other computer crimes.

25 (a) Offense defined.--A person commits the offense of
26 unlawful use of a computer if he:

27 (1) accesses or exceeds authorization to access, alters,
28 damages or destroys any computer, computer system, computer
29 network, computer software, computer program, computer
30 database, World Wide Web site or telecommunication device or

1 any part thereof with the intent to interrupt the normal
2 functioning of an organization or to devise or execute any
3 scheme or artifice to defraud or deceive or control property
4 or services by means of false or fraudulent pretenses,
5 representations or promises;

6 (2) intentionally and without authorization accesses or
7 exceeds authorization to access, alters, interferes with the
8 operation of, damages or destroys any computer, computer
9 system, computer network, computer software, computer
10 program, computer database, World Wide Web site or
11 telecommunication device or any part thereof; or

12 (3) intentionally or knowingly and without authorization
13 gives or publishes a password, identifying code, personal
14 identification number or other confidential information about
15 a computer, computer system, computer network, computer
16 database, World Wide Web site or telecommunication device.

17 (b) Grading.--An offense under subsection (a)(1) shall
18 constitute a felony of the third degree. An offense under
19 subsection (a)(2) or (3) shall constitute a misdemeanor of the
20 first degree.

21 (c) Prosecution not prohibited.--Prosecution for an offense
22 under this section shall not prohibit prosecution under any
23 other section of this title.

24 § 7604. Disruption of service.

25 (a) Offense defined.--An individual commits an offense if he
26 intentionally or knowingly engages in a scheme or artifice,
27 including, but not limited to, a denial of service attack upon
28 any computer, computer system, computer network, computer
29 software, computer program, computer server, computer database,
30 World Wide Web site or telecommunication device or any part

1 thereof that is designed to block, impede or deny the access of
2 information or initiation or completion of any sale or
3 transaction by users of that computer, computer system, computer
4 network, computer software, computer program, computer server or
5 database or any part thereof.

6 (b) Grading.--An offense under this section shall constitute
7 a misdemeanor of the first degree.

8 § 7605. Computer theft.

9 (a) Offense defined.--A person commits an offense if he
10 unlawfully accesses and without permission takes or makes use
11 of, in any form, including, but not limited to, any data from a
12 computer, computer system or computer network or takes or copies
13 any supporting documentation whether existing or residing
14 internal or external to a computer, computer system or computer
15 network of another with the intent to deprive him thereof.

16 (b) Grading.--An offense under this section shall constitute
17 a misdemeanor of the first degree.

18 § 7606. Unlawful duplication.

19 (a) Offense defined.--An individual commits the offense of
20 unlawful duplication if he makes or causes to be made an
21 unauthorized copy, in any form, including, but not limited, to,
22 any printed or electronic form of computer data, computer
23 programs or computer software residing in, communicated by or
24 produced by a computer or computer network.

25 (b) Grading.--An offense under subsection (a) shall be
26 graded as follows:

27 (1) A first offense shall constitute a misdemeanor of
28 the first degree. A second or subsequent offense shall
29 constitute a felony of the third degree.

30 (2) If the economic value of the duplicated material is

1 greater than \$2,500, the grading of the offense shall be one
2 grade higher than specified in paragraph (1).

3 § 7607. Computer trespass.

4 (a) Offense defined.--An individual commits the offense of
5 computer trespass if he knowingly and without authority, or in
6 excess of given authority, uses a computer or computer network
7 with the intent to:

8 (1) temporarily or permanently remove computer data,
9 computer programs or computer software from a computer or
10 computer network;

11 (2) cause a computer to malfunction, regardless of the
12 amount of time the malfunction persists;

13 (3) alter or erase any computer data, computer programs
14 or computer software;

15 (4) effect the creation or alteration of a financial
16 instrument or of an electronic transfer of funds; or

17 (5) cause physical injury to the property of another.

18 (b) Grading.--A first offense under this section shall
19 constitute a misdemeanor of the third degree. A second or
20 subsequent offense under this section shall constitute a
21 misdemeanor of the first degree.

22 § 7608. Distribution of computer virus.

23 (a) Offense defined.--An individual commits an offense if
24 the individual intentionally or knowingly sells, gives or
25 otherwise distributes or possesses with the intent to sell, give
26 or distribute computer software or a computer program that is
27 designed or has the capability to:

28 (1) prevent, impede, control, delay or disrupt the
29 normal operation or use of a computer, computer program,
30 computer software, computer system, computer network,

1 computer database, World Wide Web site or telecommunication
2 device; or

3 (2) degrade, disable, damage or destroy the performance
4 of a computer, computer program, computer software, computer
5 system, computer network, computer database, World Wide Web
6 site or telecommunication device or any combination thereof.

7 (b) Grading.--An offense under this section shall constitute
8 a felony of the third degree.

9 § 7609. Restitution.

10 Upon conviction of an offense under section 7603 (relating to
11 unlawful use of computer and other computer crimes), 7604
12 (relating to disruption of service) or 7608 (relating to
13 distribution of computer virus), the sentence shall include an
14 order for restitution to the victim for:

15 (1) the cost of repairing or replacing the affected
16 computer, computer system, computer network, computer
17 software, computer program, computer database, World Wide Web
18 site or telecommunication device;

19 (2) lost profits for the period that the computer,
20 computer system, computer network, computer software,
21 computer program, computer database, World Wide Web site or
22 telecommunication device is not useable; or

23 (3) the cost of replacing or restoring the data lost or
24 damaged as a result of a violation of section 7603, 7604 or
25 7608.

26 § 7610. Concurrent jurisdiction.

27 The Attorney General shall have concurrent prosecutorial
28 jurisdiction with the county district attorney for violations of
29 this section. No person charged with a violation of this section
30 by the Attorney General shall have standing to challenge the

1 authority of the Attorney General to prosecute the case, and, if
2 any such challenge is made, the challenge shall be dismissed and
3 no relief shall be available in the courts of this Commonwealth
4 to the person making the challenge.

5 Section 4. This act shall take effect in 60 days.