
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 32

Session of
2007

INTRODUCED BY MARKOSEK, BELFANTI, BENNINGTON, BOYD, CALTAGIRONE,
CARROLL, CASORIO, DeWEESE, FREEMAN, GEIST, GERGELY, GRUCELA,
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KIRKLAND, ROSS, THOMAS, FABRIZIO, COSTA, STABACK, CURRY,
SURRA, WALKO, SAYLOR, FRANKEL, SWANGER, HORNAMAN, ROHRER,
J. WHITE, RAMALEY AND PETRARCA, JANUARY 30, 2007

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 30, 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. Protection from liability.

13 7674. Civil relief.

14 § 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 conveyed by oral, written or
5 electronic means, including telephone, electronic mail,
6 Internet, facsimile, telex, wireless communication or similar
7 transmission.

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

11 (1) Name.

12 (2) Birth date.

13 (3) Social Security number.

14 (4) Driver's license number or nondriver governmental
15 identification number.

16 (5) Telephone number.

17 (6) Checking or savings account number.

18 (7) Student identification number.

19 (8) Employee or payroll number.

20 (9) Electronic signature.

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

23 "Web page." A location, with respect to the World Wide Web,
24 that has a single uniform resource locator or other single
25 location with respect to the Internet.

26 § 7672. Phishing.

27 (a) Offense of phishing.--An actor commits the offense of
28 phishing under the following circumstances if the actor, with
29 the intent to defraud or injure anyone or with the knowledge
30 that a fraud is being facilitated or that an injury is being

1 perpetrated by anyone:

2 (1) the actor makes a communication under false
3 pretenses by or on behalf of a legitimate business, without
4 the authority or approval of the business;

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

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

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

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

17 (1) The place where a person possessed, obtained or used
18 the identifying information of another person under false
19 pretenses.

20 (2) The residence of the person whose identifying
21 information has been stolen or used under false pretenses.

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

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

29 (e) Concurrent jurisdiction to prosecute.--In addition to
30 the authority conferred upon the Attorney General by the act of

1 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
2 Attorneys Act, the Attorney General shall have the authority to
3 investigate and to institute criminal proceedings for any
4 violation of this section or any series of violations involving
5 more than one county of this Commonwealth or another state. No
6 person charged with a violation of this section by the Attorney
7 General shall have standing to challenge the authority of the
8 Attorney General to investigate or prosecute the case, and if
9 the challenge is made, the challenge shall be dismissed and no
10 relief shall be made available in the courts of this
11 Commonwealth to the person making this challenge.

12 § 7673. Protection from liability.

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

20 § 7674. Civil relief.

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

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

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

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

30 (1) Seek injunctive relief to restrain the violator from

1 continuing the violation.

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

4 (i) Actual damages arising from the violation.

5 (ii) Not more than \$100,000 for each violation of
6 the same nature.

7 (3) Obtain both injunctive relief and damages as
8 provided in this subsection.

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

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

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