
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1036 Session of
2017

INTRODUCED BY NEUMAN, SNYDER, READSHAW, MILLARD, WARD,
CALTAGIRONE, MATZIE, CUTLER, DRISCOLL, V. BROWN, KAVULICH,
SCHLOSSBERG, MURT, McNEILL, BARBIN, SOLOMON, TOPPER, FREEMAN,
B. MILLER, IRVIN, CONKLIN, HILL-EVANS, W. KELLER AND GROVE,
MARCH 31, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 31, 2017

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.

17 The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

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

7 "Identifying information." As defined in section 4120(f)
8 (relating to identity theft).

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

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

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

21 § 7672. Phishing.

22 (a) Offense of phishing.--An actor commits the offense of
23 phishing if the actor:

24 (1) intends to defraud or injure another person or knows
25 that a fraud is being facilitated or that an injury is being
26 perpetrated by anyone; and

27 (2) makes a communication under false pretenses by or on
28 behalf of a legitimate business without the authority or
29 approval of the business and uses the communication to
30 induce, request or solicit a person to provide identifying

1 information and the person provides the identifying
2 information to the actor or an accomplice of the actor.

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

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

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

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

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

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

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

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

6 § 7673. Protection from liability.

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

14 § 7674. Civil relief.

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

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

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

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

28 (i) Actual damages arising from the violation.

29 (ii) Statutory damages, as determined by the court,
30 of not more than \$100,000 for each violation of the same

1 nature.

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

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

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

12 (e) Venue.--An action under this section may be brought at
13 one of the following locations:

14 (1) The residence or principal place of business of a
15 person who receives a communication.

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

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

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