

JAN 25 2006

S.B. NO. 3109

A BILL FOR AN ACT

RELATING TO THE HAWAII PENAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the practice of
2 "phishing," or accessing or obtaining an individual's bank
3 routing and account numbers is an escalating problem that is
4 difficult to prosecute and devastating for its victims.

5 The purpose of this Act is to:

- 6 (1) Make the practice of using a computer to access or
7 obtain an individual's identifying information a class
8 B felony;
- 9 (2) Make the sale of distribution of illegally obtained
10 identifying information a class B felony;
- 11 (3) Make the use of illegally obtained identifying
12 information a class B felony;
- 13 (4) Provide for restitution for victims; and
- 14 (5) Provide for the possibility of civil liability of
15 violators.

16 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
17 amended by adding three new sections to be appropriately
18 designated and to read as follows:



1 "§708-A Using a computer to obtain identifying
2 information; penalties. (1) A person commits the offense of
3 using a computer to obtain identifying information if, through
4 the use of material artifice, trickery or deception, a person
5 uses a computer to obtain any type of identifying information,
6 as defined in this section.

7 (2) As used in this section, "identifying information"
8 shall include but shall not be limited to:

- 9 (a) Name;
- 10 (b) Date of birth;
- 11 (c) Social security number;
- 12 (d) Driver's license number;
- 13 (e) Bank account numbers;
- 14 (f) Bank routing numbers;
- 15 (g) Credit card or debit numbers;
- 16 (h) Personal identification numbers;
- 17 (i) Electronic identification codes;
- 18 (j) Automated or electronic signatures;
- 19 (k) Biometric data;
- 20 (l) Fingerprints;
- 21 (m) Passwords; or



1 (n) Any other numbers or information that can be used to
2 access a person's financial resources, obtain
3 identification, act as identification, or obtain goods
4 or services.

5 (3) It shall be an affirmative defense if the person who
6 obtains the identifying information is a law-enforcement officer
7 as defined in section 710-1000 and is acting in the performance
8 of the law-enforcement officer's official duties.

9 (4) Victims of any unlawful use of a computer to obtain
10 identifying information shall be entitled to restitution as
11 provided in section 706-646.

12 (5) Nothing in this section shall prevent a violator from
13 being found civilly liable by a court of competent jurisdiction.

14 (6) The use of a computer to obtain identifying
15 information is a class B felony.

16 **§708-B Sale or distribution of identifying information.**

17 (1) A person commits the offense of selling or distributing
18 identifying information if the person:

19 (a) Uses a computer to obtain any identifying information
20 in violation of section 708-A; and

21 (b) Sells or distributes the identifying information to
22 another person.

1 (2) The sale or distribution of identifying information is
2 a class B felony.

3 **§708-C Use of identifying information in the commission of**
4 **a crime.** (1) A person commits the offense of using identifying
5 information in the commission of a crime if the person:

6 (a) Uses a computer to obtain any identifying information
7 in violation of section 708-A; and

8 (b) Uses the identifying information in the commission of
9 another crime.

10 (2) The use of identifying information in the commission
11 of another crime shall be a class B felony."

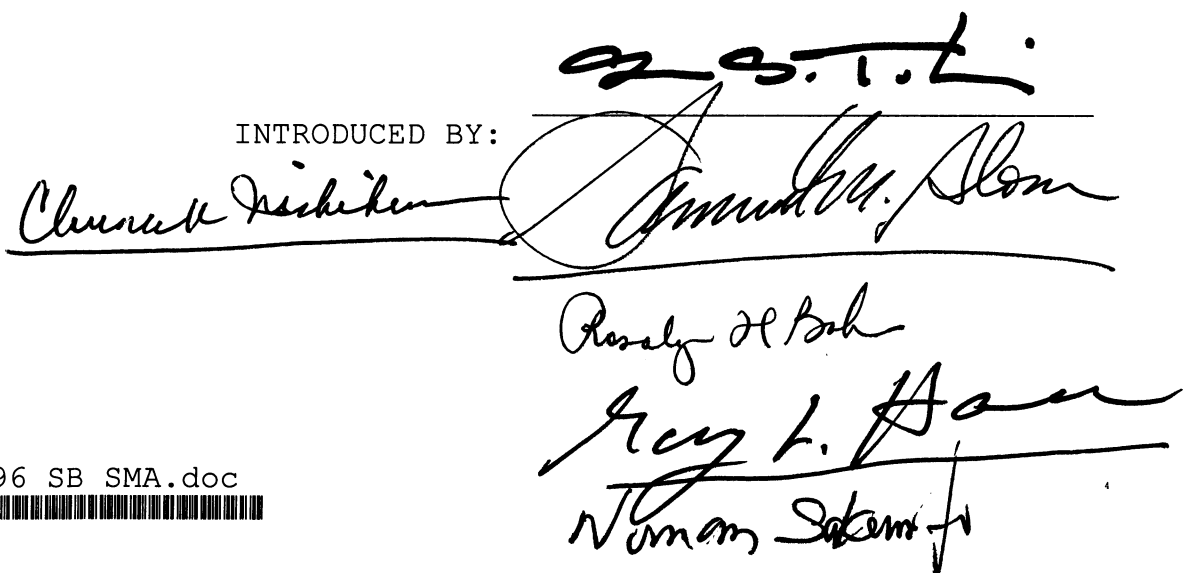
12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date.

16 SECTION 5. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:

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Report Title:
Identity Theft

Description:

Makes using a computer to obtain identifying information a class B felony. Makes the sale or distribution of unlawfully obtained identifying information a class B felony. Makes the use of unlawfully obtained identifying information in the commission of a crime a class B felony. Allows for victim restitution and civil liability of violators.

