

Honolulu, Hawaii

FEB 17, 2006

RE: S.B. No. 3109
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Commerce, Consumer Protection, and Housing and Media, Arts, Science, and Technology, to which was referred S.B. No. 3109 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE,"

beg leave to report as follows:

The purposes of this measure are to impose criminal penalties for a type of identity theft known as "phishing". Specifically, this measure:

- (1) Makes the practice of using a computer to access or obtain an individual's identifying information a class B felony;
- (2) Makes the sale or distribution of illegally obtained identifying information a class B felony;
- (3) Makes the use of illegally obtained identifying information a class B felony;
- (4) Provides for restitution for victims; and
- (5) Provides for civil liability of violators.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs, the University of Hawaii, and the Honolulu Police Department. The Office of the Public Defender submitted comments on the measure.



Phishing is the term used to describe internet information-gathering schemes. Scammers attempt to dupe internet users into divulging confidential information, such as credit card numbers, passwords, and account information, under false pretenses. Phishers send out millions of bogus emails hoping to lure victims to follow links to fraudulent or spoofed websites that look official enough to trick victims into believing they are legitimate sites. The embedded links actually take unsuspecting internet users to a scam site or pop-up window that appears identical to the official site, where victims may be tricked into divulging confidential personal information. According to a report by the computer security company Symantec Corp., phishing attacks in 2005 were up one hundred per cent from the year before, which resulted in a significant increase in the loss of confidential financial information.

Phishing is an escalating problem that is devastating for its victims and difficult to prosecute. Stiffer criminal penalties are needed for phishers who use a computer to access or obtain an individual's identifying information, or who sell, distribute, or use the illegally obtained identifying information. Additionally, remedies are needed for phishing victims, such as restitution and the possibility of filing a civil action for damages.

Your Committees find that amending chapter 708, Hawaii Revised Statutes, by adding three new sections that will impose severe criminal penalties on violators and provide monetary remedies for victims will help address the problem of phishing. Furthermore, the amendments to chapter 708 will aid law enforcement officers in their efforts to combat identity theft crimes.


Your Committees note that within the "package" of identity theft related bills reviewed by the Committees, the definition of "confidential personal information" in S.B. 2159, S.D. 1 contains many of the same elements as the definition of "identifying information" in this bill. As the bills move forward, conformity in related definitions will continue to be a priority of the Committees.

Your Committees have amended this measure for the purposes of clarity and style.



As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Housing and Media, Arts, Science, and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3109, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3109, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and
Housing and Media, Arts,
Science, and Technology,



CAROL FUKUNAGA, Chair



RON MENOR, Chair



