
A BILL FOR AN ACT

RELATING TO COMPUTER CRIME.

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

1 SECTION 1. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§708- Computer fraud in the third degree. (1) A
5 person commits the offense of computer fraud in the third degree
6 if the person knowingly accesses a computer, computer system, or
7 computer network, or obtains identifying information by
8 phishing, with the intent to commit the offense of theft in the
9 third or fourth degree.

10 (2) Computer fraud in the third degree is a class C
11 felony."

12 SECTION 2. Section 708-890, Hawaii Revised Statutes, is
13 amended by adding seven new definitions to be appropriately
14 inserted and to read as follows:

15 "Authorized user" means, with regards to a computer, the
16 owner or lessee of a computer or a person authorized by the
17 owner or lessee to use the computer.



1 "Cookie" means a text or data file that is placed on a
2 computer to record information that can be read or recognized
3 when the user of the computer later accesses a particular
4 website or online location by a website, internet service
5 provider, or a third party acting on behalf of a website, or
6 internet service provider.

7 "Electronic mail" or "email" means a message sent, posted,
8 or transmitted to a unique destination that is commonly
9 expressed as a string of characters consisting of a unique user
10 name or mailbox and a reference to an internet domain, whether
11 or not displayed, to which electronic mail can be sent,
12 delivered, or posted.

13 "Identifying information" means a person's:

- 14 (1) Social security number;
- 15 (2) Driver's license number;
- 16 (3) Bank account number;
- 17 (4) Credit or debit card number;
- 18 (5) Personal identification number;
- 19 (6) Automated or electronic signature;
- 20 (7) Unique biometric data;
- 21 (8) Account password, including any electronic mail or
22 social media account password; or



1 (9) Any other piece of information that can be used to
2 access a person's financial accounts or to obtain
3 goods or services.

4 "Phishing" means to solicit, request, or take any action to
5 induce a person to provide identifying information by fraudulent
6 use of a website, electronic mail or email, or otherwise through
7 the Internet.

8 "Spyware" means a computer program or software that is
9 distributed or transferred to the computer, computer system, or
10 computer network of an authorized user which is used to:

11 (1) Modify, without authorization or through deceptive
12 means, the settings related to an authorized user's
13 computer access to or use of the Internet;

14 (2) Collect, without authorization or through deceptive
15 means, information about an authorized user that:

16 (A) Is collected through the use of a keystroke-
17 logging function that records all keystrokes made
18 by the authorized user and transfers that
19 information from the computer to another person;

20 (B) Includes all or substantially all of the websites
21 visited by the authorized user, other than the
22 websites of the provider of the software;



1 (C) Is extracted from the authorized user's computer
2 hard drive for a purpose wholly unrelated to any
3 of the purposes of the software or service as
4 described to the authorized user; or

5 (D) Is collected by extracting screen shots of the
6 authorized user's use of the computer for a
7 purpose wholly unrelated to any of the purposes
8 of the software of the software or service as
9 described to the authorized user;

10 (3) Prevent, without authorization or through deceptive
11 means, the authorized user's reasonable efforts to
12 block the installation of or to disable software by
13 causing software that the authorized user has properly
14 removed or disabled to automatically reinstall or
15 reactivate on the computer;

16 (4) Misrepresent that software will be uninstalled or
17 disabled by an authorized user's action with knowledge
18 that the software will not be so uninstalled or
19 disabled;

20 (5) Without authorization or through deceptive means,
21 remove, disable, or render inoperative security
22 related software installed on the computer; or



1 (6) Induce an authorized user to install any software
2 component by intentionally misrepresenting that
3 installing the software component is necessary for
4 security or privacy reasons or to open, view, or play
5 a particular type of content or software.

6 "Spyware" does not include the distribution or transfer of:

7 (1) Software that falls within the scope of a grant of
8 authorization by an authorized user;

9 (2) An upgrade to a software program that has already been
10 installed on the computer with the authorization of an
11 authorized user; or

12 (3) Text or data files that report information to a
13 website, internet service provider, or third party
14 acting on behalf of a website or internet service
15 provider that has been previously stored on the user's
16 computer, computer system, or computer network,
17 including a cookie.

18 "Webpage" or "website" means a location that has a single
19 uniform resource locator with respect to the world wide web, or
20 a single location with respect to the Internet."

21 SECTION 3. Section 708-891, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[+]~~§708-891~~[+]~~ **Computer fraud in the first degree.** (1)

2 A person commits the offense of computer fraud in the first
3 degree if the person knowingly~~[, and with intent to defraud,~~
4 ~~accesses a computer without authorization and, by means of such~~
5 ~~conduct, obtains or exerts control over the property of another.~~

6 ~~(2) In a prosecution for computer fraud in the first~~
7 ~~degree, it is a defense that the object of the fraud and the~~
8 ~~property obtained consists only of the use of the computer and~~
9 ~~the value of such use is not more than \$300 in any one year~~
10 ~~period.] accesses a computer, computer system, or computer~~
11 ~~network, or obtains identifying information by phishing, with~~
12 ~~the intent to:~~

13 (a) Facilitate the commission of a murder in any degree,
14 any class A felony, kidnapping, unlawful imprisonment
15 in any degree, extortion in any degree, any offense
16 under chapter 134, criminal property damage in the
17 first or second degree, escape in any degree, any
18 offense under part VI of chapter 710, any offense
19 under section 711-1103, or any offense under chapter
20 842; or

21 (b) Commit the offense of theft in the first degree.



1 ~~[-3-]~~ (2) Computer fraud in the first degree is a class [B]
2 A felony."

3 SECTION 4. Section 708-891.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[-]~~**§708-891.5[-]** **Computer fraud in the second degree.**

6 (1) A person commits the offense of computer fraud in the
7 second degree if the person knowingly~~[, and with the intent to~~
8 ~~defraud, transfers, or otherwise disposes of, to another, or~~
9 ~~obtains control of, with the intent to transfer or dispose of,~~
10 ~~any password or similar information through which a computer,~~
11 ~~computer system, or computer network may accessed.]~~ accesses a
12 computer, computer system, or computer network, or obtains
13 identifying information by phishing, with the intent to commit
14 the offense of theft in the second degree.

15 (2) Computer fraud in the second degree is a class [E] B
16 felony."

17 SECTION 5. Section 708-895.7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~[-]~~**§708-895.7[-]** **Unauthorized computer access in the**

20 **third degree.** (1) A person commits the offense of unauthorized
21 computer access in the third degree if the person knowingly
22 accesses, or distributes or transfer spyware to, a computer,



1 computer system, or computer network without authorization[-] or
2 by deceptive means.

3 (2) Unauthorized computer access in the third degree is a
4 misdemeanor."

5 SECTION 6. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 7. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect upon its approval.

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JAN 18 2012



H.B. NO. 2027

Report Title:

Computer Crime; Phishing; Spyware; Unauthorized Computer Access

Description:

Adds new definitions to computer crime, including identifying information, malware, phishing, and spyware. Establishes a third degree of computer fraud, and incorporates the element of phishing into all three computer fraud offenses. Amends the offense of unauthorized computer access in the third degree to include distributing or transferring spyware without authorization or by deceptive means.

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