

---

---

# A BILL FOR AN ACT

RELATING TO CRIME.

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

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

4           "§708-    Cybersquatting prohibited. (1) A person commits  
5 the offense of cybersquatting if, without regard to the goods or  
6 services of the parties, the person:

7           (a) Has a bad faith intent to profit from that mark,  
8           including a personal name that is protected as a mark  
9           under this section; and

10          (b) Registers, traffics in, or uses a domain name that:

11           (i) In the case of a mark that is distinctive at the  
12           time of registration of the domain name, is  
13           identical or confusingly similar to that mark;

14           (ii) In the case of a famous mark that is famous at  
15           the time of registration of the domain name, is  
16           identical or confusingly similar to or dilutive  
17           of that mark; or





- 1        (f) The person's offer to transfer, sell, or otherwise  
2        assign the domain name to the mark owner or any third  
3        party for financial gain without having used, or  
4        having an intent to use, the domain name in the bona  
5        fide offering of any goods or services, or the  
6        person's prior conduct indicating a pattern of such  
7        conduct;
- 8        (g) The person's provision of material and misleading  
9        false contact information when applying for the  
10       registration of the domain name, the person's  
11       intentional failure to maintain accurate contact  
12       information, or the person's prior conduct indicating  
13       a pattern of such conduct;
- 14       (h) The person's registration or acquisition of multiple  
15       domain names that the person knows are identical or  
16       confusingly similar to marks of others that are  
17       distinctive at the time of registration of such domain  
18       names, or dilutive of famous marks of others that are  
19       famous at the time of registration of such domain  
20       names, without regard to the goods or services of the  
21       parties; and



1        (i) The extent to which the mark incorporated in the  
2                    person's domain name registration is or is not  
3                    distinctive and famous within the meaning of  
4                    subsection (3).

5 Bad faith intent described under subsection (1) shall not be  
6 found in any case in which the court determines that the person  
7 believed and had reasonable grounds to believe that the use of  
8 the domain name was a fair use or otherwise lawful.

9        (3) In any criminal action involving the registration,  
10 trafficking, or use of a domain name under this section, a court  
11 may order the forfeiture or cancellation of the domain name or  
12 the transfer of the domain name to the owner of the mark.

13        (4) A person shall be liable for using a domain name under  
14 subsection (1) only if that person is the domain name registrant  
15 or that registrant's authorized licensee.

16        (5) For the purposes of this section:

17        "Mark" means a word, name, symbol, device, or any  
18 combination of the foregoing in any form or arrangement.

19        "Person" means an individual, corporation, government or  
20 governmental subdivision or agency, business trust, estate,  
21 trust, partnership, unincorporated association, two or more of



1 any of the foregoing having a joint or common interest, or any  
2 other legal or commercial entity.

3 "Trademark" means a mark used by a person to identify goods  
4 and to distinguish them from the goods of others.

5 "Traffics in" means transactions that include but are not  
6 limited to sales, purchases, loans, pledges, licenses, exchanges  
7 of currency, and any other transfer for consideration or receipt  
8 in exchange for consideration.

9 (6) Cybersquatting is a misdemeanor."

10 SECTION 2. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

13 SECTION 3. If any provision of this Act, or the  
14 application thereof to any person or circumstance, is held  
15 invalid, the invalidity does not affect other provisions or  
16 applications of the Act that can be given effect without the  
17 invalid provision or application, and to this end the provisions  
18 of this Act are severable.

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2012.



**Report Title:**

Computer Crime; Cybersquatting

**Description:**

Establishes the offense of cybersquatting as a misdemeanor.  
(Proposed SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

