

By Senator Fasano

11-00309B-08

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1 A bill to be entitled

2 An act relating to data theft; amending s. 815.04, F.S.;

3 providing that the knowing or negligent transfer of data

4 from one computer to another without the written consent

5 of the owner in the course of providing computer

6 maintenance or support is an offense against intellectual

7 property, a third-degree felony; defining the term

8 "negligently" for purposes of such offense; providing for

9 civil liability of the person performing the maintenance

10 or support and his or her employer; providing an effective

11 date.

12

13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 815.04, Florida Statutes, is amended to

16 read:

17 815.04 Offenses against intellectual property; public

18 records exemption.--

19 (1) (a) Whoever willfully, knowingly, and without

20 authorization modifies data, programs, or supporting

21 documentation residing or existing internal or external to a

22 computer, computer system, or computer network commits an offense

23 against intellectual property.

24 (b) ~~(2)~~ Whoever willfully, knowingly, and without

25 authorization destroys data, programs, or supporting

26 documentation residing or existing internal or external to a

27 computer, computer system, or computer network commits an offense

28 against intellectual property.

29 (2) (a) Whoever, in the course of providing computer

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30 maintenance or support to a customer, knowingly or negligently  
31 transfers personal data from one computer to another without the  
32 express written permission of the data owner commits an offense  
33 against intellectual property. In addition to criminal penalties,  
34 the person performing the maintenance or support and his or her  
35 employer are subject to civil liability for a violation of this  
36 subsection. An injured customer has a cause of action for damages  
37 as provided in s. 772.104.

38 (b) For purposes of this subsection, the term "negligently"  
39 means transferring data without taking the proper precautions to  
40 ensure that an unauthorized transfer does not occur or failing to  
41 take appropriate measures following maintenance or support to  
42 ensure that an unauthorized data transfer does not occur.

43 (3) (a) Data, programs, or supporting documentation which is  
44 a trade secret as defined in s. 812.081 which resides or exists  
45 internal or external to a computer, computer system, or computer  
46 network which is held by an agency as defined in chapter 119 is  
47 confidential and exempt from the provisions of s. 119.07(1) and  
48 s. 24(a), Art. I of the State Constitution.

49 (b) Whoever willfully, knowingly, and without authorization  
50 discloses or takes data, programs, or supporting documentation  
51 which is a trade secret as defined in s. 812.081 or is  
52 confidential as provided by law residing or existing internal or  
53 external to a computer, computer system, or computer network  
54 commits an offense against intellectual property.

55 (4) (a) Except as otherwise provided in this subsection, an  
56 offense against intellectual property is a felony of the third  
57 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
58 775.084.

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59           (b) If the offense is committed for the purpose of devising  
60 or executing any scheme or artifice to defraud or to obtain any  
61 property, ~~then~~ the offender commits ~~is guilty of~~ a felony of the  
62 second degree, punishable as provided in s. 775.082, s. 775.083,  
63 or s. 775.084.

64           Section 2. This act shall take effect July 1, 2008.