

HB 219

2009

1 A bill to be entitled
2 An act relating to offenses against computer users;
3 amending s. 815.03, F.S.; defining the term "spyware";
4 amending s. 815.06, F.S.; providing that whoever
5 willfully, knowingly, and without authorization introduces
6 any computer contaminant, including spyware, into any
7 computer, computer system, computer program, or computer
8 network commits an offense against computer users;
9 providing criminal penalties; providing enhanced criminal
10 penalties under certain circumstances; authorizing the
11 Department of Legal Affairs or a state attorney to file a
12 civil action for injunctive relief against any person or
13 group to restrain prohibited activities; authorizing a
14 court to award court costs and reasonable attorney's fees
15 to the prevailing party; permitting a court to impose a
16 civil penalty not to exceed a stated amount for each
17 offense against computer users; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsection (3) of section 815.03, Florida
23 Statutes, is amended, and subsection (12) is added to that
24 section, to read:

25 815.03 Definitions.--As used in this chapter, unless the
26 context clearly indicates otherwise:

27 (3) "Computer contaminant" means any set of computer
28 instructions designed to modify, damage, destroy, record, or

29 transmit information within a computer, computer system, or
 30 computer network without the intent or permission of the owner
 31 of the information. The term includes, but is not limited to, a
 32 group of computer instructions commonly called viruses or worms
 33 which are self-replicating or self-propagating and which are
 34 designed to contaminate other computer programs or computer
 35 data; consume computer resources; modify, destroy, record, or
 36 transmit data; or in some other fashion usurp the normal
 37 operation of the computer, computer system, or computer network
 38 and includes spyware.

39 (12) "Spyware" means computer instructions or software
 40 installed into a computer, computer program, computer system, or
 41 computer network which, without the informed consent of the
 42 operator:

43 (a) Monitors the use of a computer, computer program,
 44 computer system, or computer network.

45 (b) Allows a person or software to control the operator's
 46 computer from another computer or electronic device.

47 Section 2. Subsection (1) of section 815.06, Florida
 48 Statutes, is amended, present subsections (4), (5), (6), and (7)
 49 of that section are redesignated as subsections (5), (6), (7),
 50 and (8), respectively, a new subsection (4) is added to that
 51 section, and subsection (2) of that section is reenacted, to
 52 read:

53 815.06 Offenses against computer users.--

54 (1) Whoever willfully, knowingly, and without
 55 authorization:

56 (a) Accesses or causes to be accessed any computer,

57 computer system, or computer network;

58 (b) Disrupts or denies or causes the denial of computer
 59 system services to an authorized user of such computer system
 60 services, which, in whole or part, is owned by, under contract
 61 to, or operated for, on behalf of, or in conjunction with
 62 another;

63 (c) Destroys, takes, injures, or damages equipment or
 64 supplies used or intended to be used in a computer, computer
 65 system, or computer network;

66 (d) Destroys, injures, or damages any computer, computer
 67 system, or computer network; or

68 (e) Introduces any computer contaminant or spyware into
 69 any computer, computer system, or computer network,

70
 71 commits an offense against computer users.

72 (2) (a) Except as provided in paragraphs (b) and (c),
 73 whoever violates subsection (1) commits a felony of the third
 74 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 75 775.084.

76 (b) Whoever violates subsection (1) and:

77 1. Damages a computer, computer equipment, computer
 78 supplies, a computer system, or a computer network, and the
 79 monetary damage or loss incurred as a result of the violation is
 80 \$5,000 or greater;

81 2. Commits the offense for the purpose of devising or
 82 executing any scheme or artifice to defraud or obtain property;

83 or

84 3. Interrupts or impairs a governmental operation or

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85 public communication, transportation, or supply of water, gas,
86 or other public service,

87
88 commits a felony of the second degree, punishable as provided in
89 s. 775.082, s. 775.083, or s. 775.084.

90 (c) Whoever violates subsection (1) and the violation
91 endangers human life commits a felony of the first degree,
92 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

93 (4) The Department of Legal Affairs or a state attorney
94 may file a civil action on behalf of the people of this state
95 for injunctive relief against any person or group violating
96 subsection (1) to restrain the prohibited activity. The court
97 may award court costs and reasonable attorney's fees to the
98 prevailing party. The court may also impose a civil penalty not
99 to exceed \$10,000 for each violation of subsection (1).

100 Section 3. This act shall take effect July 1, 2009.