

1 A bill to be entitled

2 An act relating to electronic commerce; providing a  
3 directive to the Division of Law Revision and  
4 Information; creating the "Computer Abuse and Data  
5 Recovery Act"; creating s. 668.801, F.S.; providing a  
6 short title; creating s. 668.802, F.S.; providing a  
7 statement of purpose; creating s. 668.803, F.S.;  
8 defining terms; creating s. 668.804, F.S.; prohibiting  
9 a person from intentionally committing specified acts  
10 without authorization with respect to a protected  
11 computer; providing penalties for a violation;  
12 creating s. 668.805, F.S.; specifying remedies for  
13 civil actions brought by persons affected by a  
14 violation; providing that specified criminal judgments  
15 or decrees against a defendant act as estoppel as to  
16 certain matters in specified civil actions; providing  
17 that specified civil actions must be filed within  
18 certain periods of time; creating s. 668.806, F.S.;  
19 providing that the act does not prohibit specified  
20 activity by certain governmental agencies or impose  
21 liability on certain technology service providers;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. The Division of Law Revision and Information is

27 directed to create part V of chapter 668, Florida Statutes,  
28 consisting of ss. 668.801-668.806, Florida Statutes, to be  
29 entitled the "Computer Abuse and Data Recovery Act."

30 Section 2. Section 668.801, Florida Statutes, is created  
31 to read:

32 668.801 Short title.—This part may be cited as the  
33 "Computer Abuse and Data Recovery Act."

34 Section 3. Section 668.802, Florida Statutes, is created  
35 to read:

36 668.802 Construction of part.—This part shall be liberally  
37 construed to safeguard an owner, operator, or lessee of a  
38 protected computer, or an owner of information stored in a  
39 protected computer, from harm or loss caused by unauthorized  
40 access to such computer.

41 Section 4. Section 668.803, Florida Statutes, is created  
42 to read:

43 668.803 Definitions.—As used in this part, the term:

44 (1) (a) "Authorized user" means, with respect to a  
45 protected computer:

46 1. A director, officer, or employee of the owner,  
47 operator, or lessee of the computer or the owner of information  
48 stored in the computer.

49 2. A third-party agent, contractor, consultant, or  
50 employee of the owner, operator, or lessee of the computer or  
51 the owner of information stored in the computer if the third-  
52 party agent, contractor, consultant, or employee is granted

53 access to the computer by the owner, operator, or lessee of the  
54 computer or by the owner of information stored in the computer  
55 in the form of a technological access barrier.

56 (b) If the owner, operator, or lessee of a protected  
57 computer or the owner of information stored in a protected  
58 computer provides a third-party agent, contractor, consultant,  
59 or employee with a technological access barrier within the scope  
60 of his or her employment, the owner, operator, or lessee of the  
61 computer or the owner of information stored in the computer  
62 gives express permission to the third-party agent, contractor,  
63 consultant, or employee to use the technological access barrier  
64 and establishes the third-party agent, contractor, consultant,  
65 or employee as an authorized user. Such permission, however, is  
66 terminated upon cessation of his or her employment.

67 (2) "Business" means any trade or business regardless of  
68 its for-profit or not-for-profit status.

69 (3) "Computer" means an electronic, magnetic, optical,  
70 electrochemical, or other high-speed data processing device that  
71 performs logical, arithmetic, or storage functions and includes  
72 any data storage facility, data storage device, or  
73 communications facility directly related to or which operates in  
74 conjunction with the device.

75 (4) "Harm" means any impairment to the integrity, access,  
76 or availability of data, programs, systems, or information.

77 (5) "Loss" means any of the following:

78 (a) Any reasonable cost incurred by the owner, operator,

79 or lessee of a protected computer or the owner of stored  
80 information, including the reasonable cost of conducting a  
81 damage assessment for harm associated with the violation and the  
82 reasonable cost for remediation efforts, such as restoring the  
83 data, programs, systems, or information to the condition it was  
84 in before the violation.

85 (b) Economic damages.

86 (c) Lost profits.

87 (d) Consequential damages, including the interruption of  
88 service.

89 (e) Profits earned by a violator as a result of the  
90 violation.

91 (6) "Protected computer" means a computer that is used in  
92 connection with the operation of a business and stores  
93 information, programs, or code in connection with the operation  
94 of the business in which the stored information, programs, or  
95 code can only be accessed by employing a technological access  
96 barrier.

97 (7) "Technological access barrier" means a password,  
98 security code, token, key fob, access device, or similar  
99 measure.

100 (8) "Traffic" means to sell, purchase, or deliver.

101 (9) "Without authorization" means access to a protected  
102 computer by:

103 (a) A person who is not an authorized user;

104 (b) A person who has stolen a technological access barrier

105 of an authorized user; or

106 (c) A person circumventing a technological access barrier  
107 on a protected computer without the express or implied  
108 permission of the owner, operator, or lessee of the protected  
109 computer or the express or implied permission of the owner of  
110 information stored in the protected computer. The term does not  
111 include circumventing a technological access barrier that does  
112 not effectively control access to the protected computer or the  
113 information stored in the protected computer.

114 Section 5. Section 668.804, Florida Statutes, is created  
115 to read:

116 668.804 Prohibited acts.—A person who knowingly and with  
117 intent to cause harm or loss:

118 (1) Obtains information from a protected computer without  
119 authorization and, as a result, causes harm or loss;

120 (2) Causes the transmission of a program, code, or command  
121 to a protected computer without authorization and, as a result  
122 of the transmission, causes harm or loss; or

123 (3) Traffics in any technological access barrier through  
124 which access to a protected computer may be obtained without  
125 authorization,

126  
127 is liable to the extent provided in s. 668.805 in a civil action  
128 to the owner, operator, or lessee of the protected computer, or  
129 the owner of information stored in the protected computer who  
130 uses the information in connection with the operation of a

131 business.

132 Section 6. Section 668.805, Florida Statutes, is created  
133 to read:

134 668.805 Remedies.—

135 (1) A person who brings a civil action for a violation  
136 under s. 668.804 may:

137 (a) Recover actual damages, including the person's lost  
138 profits and economic damages.

139 (b) Recover the violator's profits that are not included  
140 in the computation of actual damages under paragraph (a).

141 (c) Obtain injunctive or other equitable relief from the  
142 court to prevent a future violation of s. 668.804.

143 (d) Recover the misappropriated information, program, or  
144 code, and all copies thereof, that are subject to the violation.

145 (2) A court shall award reasonable attorney fees to the  
146 prevailing party in any action arising under this part.

147 (3) The remedies available for a violation of s. 668.804  
148 are in addition to remedies otherwise available for the same  
149 conduct under federal or state law.

150 (4) A final judgment or decree in favor of the state in  
151 any criminal proceeding under chapter 815 shall estop the  
152 defendant in any subsequent action brought pursuant to s.  
153 668.804 as to all matters as to which the judgment or decree  
154 would be an estoppel as if the plaintiff had been a party in the  
155 previous criminal action.

156 (5) A civil action filed under s. 668.804 must be

157 commenced within 3 years after the violation occurred or within  
158 3 years after the violation was discovered or should have been  
159 discovered with due diligence.

160 Section 7. Section 668.806, Florida Statutes, is created  
161 to read:

162 668.806 Exclusions.—

163 (1) This part does not prohibit any lawfully authorized  
164 investigative, protective, or intelligence activity of any law  
165 enforcement agency, regulatory agency, or political subdivision  
166 of this state, any other state, the United States, or any  
167 foreign country.

168 (2) This part may not be construed to impose liability on  
169 any provider of an interactive computer service as defined in 47  
170 U.S.C. 230(f), of an information service as defined in 47 U.S.C.  
171 153, or of a communications service as defined in s. 202.11, if  
172 the provider provides the transmission, storage, or caching of  
173 electronic communications or messages of a person other than the  
174 provider, related telecommunications or commercial mobile radio  
175 services, or content provided by a person other than the  
176 provider.

177 Section 8. This act shall take effect October 1, 2015.