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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 statement of purpose; creating s. 668.802, F.S.;
7 defining terms; creating s. 668.803, F.S.; prohibiting
8 a person from intentionally committing specified acts
9 without authorization with respect to a protected
10 computer; providing penalties for a violation;
11 creating s. 668.804, F.S.; specifying remedies for
12 civil actions brought by persons affected by a
13 violation; providing that specified criminal judgments
14 or decrees against a defendant act as estoppel as to
15 certain matters in specified civil actions; providing
16 that specified civil actions must be filed within
17 certain periods of time; creating s. 668.805, F.S.;
18 providing that the act does not prohibit specified
19 activity by certain state, federal, and foreign law
20 enforcement agencies, regulatory agencies, and
21 political subdivisions; providing that the act does
22 not impose liability on specified providers in certain
23 circumstances; providing an effective date.

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

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27 Section 1. The Division of Law Revision and Information is
28 directed to create part V of chapter 668, Florida Statutes,
29 consisting of ss. 668.801-668.805, Florida Statutes, to be

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30 entitled the "Computer Abuse and Data Recovery Act."

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

33 668.801 Purpose.—This part shall be construed liberally to:

34 (1) Safeguard an owner, operator, or lessee of a protected
35 computer used in the operation of a business from harm or loss
36 caused by unauthorized access to such computer.

37 (2) Safeguard an owner of information stored in a protected
38 computer used in the operation of a business from harm or loss
39 caused by unauthorized access to such computer.

40 Section 3. Section 668.802, Florida Statutes, is created to
41 read:

42 668.802 Definitions.—As used in this part, the term:

43 (1) "Authorized user" means a director, officer, employee,
44 third-party agent, contractor, or consultant of the owner,
45 operator, or lessee of the protected computer or the owner of
46 information stored in the protected computer if the director,
47 officer, employee, third-party agent, contractor, or consultant
48 is given express permission by the owner, operator, or lessee of
49 the protected computer or by the owner of information stored in
50 the protected computer to access the protected computer through
51 a technological access barrier. Such permission, however, is
52 terminated upon revocation by the owner, operator, or lessee of
53 the protected computer or by the owner of information stored in
54 the protected computer, or upon cessation of employment,
55 affiliation, or agency with the owner, operator, or lessee of
56 the protected computer or the owner of information stored in the
57 protected computer.

58 (2) "Business" means any trade or business regardless of

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59 its for-profit or not-for-profit status.

60 (3) "Computer" means an electronic, magnetic, optical,
61 electrochemical, or other high-speed data processing device that
62 performs logical, arithmetic, or storage functions and includes
63 any data storage facility, data storage device, or
64 communications facility directly related to, or operating in
65 conjunction with, the device.

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

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

69 (a) Any reasonable cost incurred by the owner, operator, or
70 lessee of a protected computer or the owner of stored
71 information, including the reasonable cost of conducting a
72 damage assessment for harm associated with the violation and the
73 reasonable cost for remediation efforts, such as restoring the
74 data, programs, systems, or information to the condition it was
75 in before the violation.

76 (b) Economic damages.

77 (c) Lost profits.

78 (d) Consequential damages, including the interruption of
79 service.

80 (e) Profits earned by a violator as a result of the
81 violation.

82 (6) "Protected computer" means a computer that is used in
83 connection with the operation of a business and stores
84 information, programs, or code in connection with the operation
85 of the business in which the stored information, programs, or
86 code can be accessed only by employing a technological access
87 barrier.

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88 (7) "Technological access barrier" means a password,
89 security code, token, key fob, access device, or similar
90 measure.

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

92 (9) "Without authorization" means access to a protected
93 computer by a person who:

94 (a) Is not an authorized user;

95 (b) Has stolen a technological access barrier of an
96 authorized user; or

97 (c) Circumvents a technological access barrier on a
98 protected computer without the express or implied permission of
99 the owner, operator, or lessee of the computer or the express or
100 implied permission of the owner of information stored in the
101 protected computer. The term does not include circumventing a
102 technological measure that does not effectively control access
103 to the protected computer or the information stored in the
104 protected computer.

105 Section 4. Section 668.803, Florida Statutes, is created to
106 read:

107 668.803 Prohibited acts.—A person who knowingly and with
108 intent to cause harm or loss:

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

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

114 (3) Traffics in any technological access barrier through
115 which access to a protected computer may be obtained without
116 authorization,

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118 is liable to the extent provided in s. 668.804 in a civil action
119 to the owner, operator, or lessee of the protected computer, or
120 the owner of information stored in the protected computer who
121 uses the information in connection with the operation of a
122 business.

123 Section 5. Section 668.804, Florida Statutes, is created to
124 read:

125 668.804 Remedies.—

126 (1) A person who brings a civil action for a violation
127 under s. 668.803 may:

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

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

132 (c) Obtain injunctive or other equitable relief from the
133 court to prevent a future violation of s. 668.803.

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

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

138 (3) The remedies available for a violation of s. 668.803
139 are in addition to remedies otherwise available for the same
140 conduct under federal or state law.

141 (4) A final judgment or decree in favor of the state in any
142 criminal proceeding under chapter 815 shall estop the defendant
143 in any subsequent action brought pursuant to s. 668.803 as to
144 all matters as to which the judgment or decree would be an
145 estoppel as if the plaintiff had been a party in the previous

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146 criminal action.

147 (5) A civil action filed under s. 668.803 must be commenced
148 within 3 years after the violation occurred or within 3 years
149 after the violation was discovered or should have been
150 discovered with due diligence.

151 Section 6. Section 668.805, Florida Statutes, is created to
152 read:

153 668.805 Exclusions.—This part does not prohibit any
154 lawfully authorized investigative, protective, or intelligence
155 activity of any law enforcement agency, regulatory agency, or
156 political subdivision of this state, any other state, the United
157 States, or any foreign country. This part may not be construed
158 to impose liability on any provider of an interactive computer
159 service as defined in 47 U.S.C. 230(f), of an information
160 service as defined in 47 U.S.C. 153, or of a communications
161 service as defined in s. 202.11, if the provider provides the
162 transmission, storage, or caching of electronic communications
163 or messages of a person other than the provider, related
164 telecommunications or commercial mobile radio services, or
165 content provided by a person other than the provider.

166 Section 7. This act shall take effect October 1, 2015.