

2015222er

1  
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.

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

26  
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

2015222er

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

2015222er

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.

2015222er

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,

2015222er

117  
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

2015222er

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.