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By: **Delegates Quinter and Lee**

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Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Fraudulent Use of Internet to Obtain Identifying Information -**  
 3 **Penalties**

4 FOR the purpose of prohibiting a person, by means of a web page, electronic mail  
 5 message, or other use of the Internet, ~~with intent to defraud~~ willfully or with  
 6 actual knowledge or a conscious avoidance of actual knowledge, from soliciting,  
 7 requesting, or taking action to induce another person to provide certain  
 8 identifying information by misrepresenting oneself, either directly or by  
 9 implication, to be a legitimate business without the authority or approval of the  
 10 business; prohibiting a person from conspiring or attempting to violate this Act;  
 11 prohibiting a person, willfully or with actual knowledge or a conscious avoidance  
 12 of actual knowledge, from possessing with intent to use in a fraudulent manner,  
 13 sell, or distribute certain identifying information obtained in violation of this  
 14 Act; establishing certain penalties for a violation of this Act; authorizing the  
 15 Attorney General to bring a certain action against a person who violates this  
 16 Act; authorizing a person engaged in the business of providing Internet access  
 17 service to the public whose network is used to transmit a message in violation of  
 18 this Act or an owner of a web page or trademark that is adversely affected by a  
 19 violation of this Act to bring a certain action against a person who violates this  
 20 Act; authorizing a court to award a certain amount of fines or damages in a  
 21 certain action against a person who violates this Act; authorizing a court to  
 22 award costs, and reasonable attorney's fees in a certain action against a person  
 23 who violates this Act; defining certain terms; and generally relating to a  
 24 prohibition against the fraudulent use of the Internet to obtain certain  
 25 identifying information.

26 BY adding to

27 Article - Criminal Law

1 Section 3-805.2  
2 Annotated Code of Maryland  
3 (2002 Volume and 2005 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Criminal Law**

7 3-805.2.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (2) "ELECTRONIC MAIL MESSAGE" MEANS A COMMUNICATION SENT TO  
11 A UNIQUE DESTINATION, COMMONLY EXPRESSED AS A STRING OF CHARACTERS  
12 THAT MAY OR MAY NOT BE DISPLAYED, CONSISTING OF A UNIQUE USER NAME OR  
13 MAILBOX, COMMONLY REFERRED TO AS THE "LOCAL PART", AND A REFERENCE TO  
14 AN INTERNET DOMAIN, COMMONLY REFERRED TO AS THE "DOMAIN PART".

15 (3) "IDENTIFYING INFORMATION" MEANS AN INDIVIDUAL'S:

16 (I) SOCIAL SECURITY NUMBER;

17 (II) DRIVER'S LICENSE NUMBER;

18 (III) BANK ACCOUNT NUMBER;

19 (IV) CREDIT OR DEBIT CARD NUMBER;

20 (V) PERSONAL IDENTIFICATION NUMBER (PIN) FOR A FINANCIAL  
21 ACCOUNT;

22 (VI) AUTOMATED OR ELECTRONIC SIGNATURE;

23 (VII) UNIQUE BIOMETRIC DATA;

24 (VIII) ACCOUNT PASSWORD; OR

25 (IX) OTHER INFORMATION THAT CAN BE USED TO ACCESS THE  
26 INDIVIDUAL'S FINANCIAL ACCOUNTS OR TO OBTAIN GOODS OR SERVICES.

27 (4) "INTERNET" HAS THE MEANING STATED IN § 3-805.1 OF THIS  
28 SUBTITLE.

29 (5) "WEB PAGE" MEANS A ~~DOCUMENT, FILE, OR~~ LOCATION ON THE  
30 WORLD WIDE WEB THAT HAS A SINGLE UNIFORM RESOURCE LOCATOR OR OTHER  
31 SINGLE LOCATION.

1 (B) (1) A PERSON MAY NOT, BY MEANS OF A WEB PAGE, ELECTRONIC MAIL  
2 MESSAGE, OR OTHER USE OF THE INTERNET, ~~WITH INTENT TO DEFRAUD~~ WILLFULLY  
3 OR WITH ACTUAL KNOWLEDGE OR CONSCIOUS AVOIDANCE OF ACTUAL  
4 KNOWLEDGE, SOLICIT, REQUEST, OR TAKE ACTION TO INDUCE ANOTHER PERSON TO  
5 PROVIDE IDENTIFYING INFORMATION BY MISREPRESENTING ONESELF, EITHER  
6 DIRECTLY OR BY IMPLICATION, TO BE A LEGITIMATE BUSINESS WITHOUT THE  
7 AUTHORITY OR APPROVAL OF THE BUSINESS.

8 (2) A PERSON MAY NOT CONSPIRE WITH ANOTHER PERSON OR ATTEMPT  
9 TO ENGAGE IN AN ACT THAT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION.

10 (3) A PERSON MAY NOT WILLFULLY, OR WITH ACTUAL KNOWLEDGE OR  
11 CONSCIOUS AVOIDANCE OF ACTUAL KNOWLEDGE, POSSESS WITH INTENT TO USE IN  
12 A FRAUDULENT MANNER, SELL, OR DISTRIBUTE IDENTIFYING INFORMATION  
13 OBTAINED IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION.

14 (C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF  
15 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
16 EXCEEDING ~~1 YEAR~~ 5 YEARS OR A FINE NOT EXCEEDING ~~\$2,500~~ \$100,000 OR BOTH.

17 (D) THE ATTORNEY GENERAL MAY BRING AN ACTION AGAINST A PERSON  
18 WHO VIOLATES SUBSECTION (B) OF THIS SECTION TO:

19 (1) ENJOIN FURTHER VIOLATIONS; AND

20 (2) RECOVER A FINE NOT EXCEEDING \$500 FOR EACH SEPARATE  
21 VIOLATION.

22 (E) A PERSON ENGAGED IN THE BUSINESS OF PROVIDING INTERNET ACCESS  
23 SERVICE TO THE PUBLIC WHOSE NETWORK IS USED TO TRANSMIT A MESSAGE IN  
24 VIOLATION OF THIS SECTION OR AN OWNER OF A WEB PAGE OR TRADEMARK THAT IS  
25 ADVERSELY AFFECTED BY REASON OF A VIOLATION OF SUBSECTION (B) OF THIS  
26 SECTION MAY BRING AN ACTION AGAINST A PERSON WHO VIOLATES SUBSECTION (B)  
27 OF THIS SECTION TO:

28 (1) ENJOIN FURTHER VIOLATIONS; AND

29 (2) RECOVER ACTUAL DAMAGES.

30 (F) IN AN ACTION UNDER SUBSECTION (D) OR (E) OF THIS SECTION, THE  
31 COURT MAY AWARD:

32 (1) UP TO THREE TIMES THE AMOUNT OF THE FINE OR DAMAGES  
33 AUTHORIZED UNDER SUBSECTION (D) OR (E) OF THIS SECTION IF THE COURT FINDS  
34 THAT THE DEFENDANT HAS ENGAGED IN A PATTERN OR PRACTICE OF VIOLATING  
35 THE PROVISIONS OF THIS SECTION; AND

36 (2) COSTS AND REASONABLE ATTORNEY'S FEES TO THE PREVAILING  
37 PARTY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2006.