

HOUSE BILL 778

E1

(0lr0989)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegates Lee, Barkley, Boteler, Bronrott, DeBoy, Dumais, Eckardt, Frick, Glenn, Gutierrez, Healey, Hecht, Howard, Impallaria, Kipke, Kramer, Kullen, Manno, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Pendergrass, Reznik, Rice, Robinson, Shewell, F. Turner, V. Turner, Valderrama, and Waldstreicher**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Crimes – Unauthorized Computer Access for Sabotage of State Government,**
3 **~~or~~ Public Utilities, or Other Energy Infrastructure**

4 FOR the purpose of prohibiting a person from intentionally and willfully gaining
5 unauthorized access to computer services with the intent to interrupt or impair
6 the functioning of the State government, a service, device, or system related to
7 the production, transmission, delivery, or storage of electricity or natural gas in
8 the State that is owned, operated, or controlled by a person other than a public
9 service company, or a service provided in the State by a public service company;
10 establishing certain penalties; and generally relating to the unauthorized access

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 of computer services to interrupt or impair the State government ~~or~~, certain
2 public utility services, or other energy infrastructure.

3 BY repealing and reenacting, with amendments,
4 Article – Criminal Law
5 Section 7–302
6 Annotated Code of Maryland
7 (2002 Volume and 2009 Supplement)

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

10 **Article – Criminal Law**

11 7–302.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “Access” means to instruct, communicate with, store data in,
14 retrieve or intercept data from, or otherwise use the resources of a computer program,
15 computer system, or computer network.

16 (3) (i) “Aggregate amount” means a direct loss of property or
17 services incurred by a victim.

18 (ii) “Aggregate amount” includes:

19 1. the value of any money, property, or service lost,
20 stolen, or rendered unrecoverable by the crime; or

21 2. any actual reasonable expenditure incurred by the
22 victim to verify whether a computer program, computer, computer system, or
23 computer network was altered, acquired, damaged, deleted, disrupted, or destroyed by
24 access in violation of this section.

25 (4) (i) “Computer” means an electronic, magnetic, optical, organic,
26 or other data processing device or system that performs logical, arithmetic, memory, or
27 storage functions.

28 (ii) “Computer” includes property, a data storage facility, or a
29 communications facility that is directly related to or operated with a computer.

30 (iii) “Computer” does not include an automated typewriter, a
31 typesetter, or a portable calculator.

32 (5) “Computer control language” means ordered statements that direct
33 a computer to perform specific functions.

1 (6) “Computer database” means a representation of information,
2 knowledge, facts, concepts, or instructions that:

3 (i) is intended for use in a computer, computer system, or
4 computer network; and

5 (ii) 1. is being prepared or has been prepared in a
6 formalized manner; or

7 2. is being produced or has been produced by a
8 computer, computer system, or computer network.

9 (7) “Computer network” means the interconnection of one or more
10 computers through:

11 (i) the use of a satellite, microwave, line, or other
12 communication medium; and

13 (ii) terminals or a complex consisting of two or more
14 interconnected computers regardless of whether the interconnection is continuously
15 maintained.

16 (8) “Computer program” means an ordered set of instructions or
17 statements that may interact with related data and, when executed in a computer
18 system, causes a computer to perform specified functions.

19 (9) “Computer services” includes computer time, data processing, and
20 storage functions.

21 (10) “Computer software” means a computer program, instruction,
22 procedure, or associated document regarding the operation of a computer system.

23 (11) “Computer system” means one or more connected or unconnected
24 computers, peripheral devices, computer software, data, or computer programs.

25 (b) This section does not preclude the applicability of any other provision of
26 this Code.

27 (c) (1) A person may not intentionally, willfully, and without
28 authorization:

29 (i) access, attempt to access, cause to be accessed, or exceed the
30 person’s authorized access to all or part of a computer network, computer control
31 language, computer, computer software, computer system, computer service, or
32 computer database; or

1 (ii) copy, attempt to copy, possess, or attempt to possess the
 2 contents of all or part of a computer database accessed in violation of item (i) of this
 3 paragraph.

4 (2) A person may not commit an act prohibited by paragraph (1) of this
 5 subsection with the intent to:

6 (i) cause the malfunction or interrupt the operation of all or
 7 any part of a computer, computer network, computer control language, computer
 8 software, computer system, computer service, or computer data; or

9 (ii) alter, damage, or destroy all or any part of data or a
 10 computer program stored, maintained, or produced by a computer, computer network,
 11 computer software, computer system, computer service, or computer database.

12 (3) A person may not intentionally, willfully, and without
 13 authorization:

14 (i) possess, identify, or attempt to identify a valid access code;
 15 or

16 (ii) publicize or distribute a valid access code to an unauthorized
 17 person.

18 (4) **A PERSON MAY NOT COMMIT AN ACT PROHIBITED UNDER
 19 THIS SUBSECTION WITH THE INTENT TO INTERRUPT OR IMPAIR THE
 20 FUNCTIONING OF:**

21 **(I) THE STATE GOVERNMENT; ~~OR~~**

22 **(II) A SERVICE, DEVICE, OR SYSTEM RELATED TO THE**
 23 **PRODUCTION, TRANSMISSION, DELIVERY, OR STORAGE OF ELECTRICITY OR**
 24 **NATURAL GAS IN THE STATE THAT IS OWNED, OPERATED, OR CONTROLLED BY A**
 25 **PERSON OTHER THAN A PUBLIC SERVICE COMPANY, AS DEFINED IN § 1-101 OF**
 26 **THE PUBLIC UTILITY COMPANIES ARTICLE; OR**

27 **~~(II)~~ (III) A SERVICE PROVIDED IN THE STATE BY A PUBLIC**
 28 **SERVICE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY**
 29 **COMPANIES ARTICLE.**

30 (d) (1) A person who violates subsection (c)(1) of this section is guilty of a
 31 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a
 32 fine not exceeding \$1,000 or both.

33 (2) A person who violates subsection (c)(2) or (3) of this section:

1 (i) if the aggregate amount of the loss is \$10,000 or more, is
2 guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years
3 or a fine not exceeding \$10,000 or both; or

4 (ii) if the aggregate amount of the loss is less than \$10,000, is
5 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5
6 years or a fine not exceeding \$5,000 or both.

7 (3) A PERSON WHO VIOLATES SUBSECTION (C)(4) OF THIS
8 SECTION:

9 (I) IF THE AGGREGATE AMOUNT OF THE LOSS IS \$50,000
10 OR MORE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
11 IMPRISONMENT NOT EXCEEDING ~~15~~ 10 YEARS OR A FINE NOT EXCEEDING
12 ~~\$50,000~~ \$25,000 OR BOTH; OR

13 (II) IF THE AGGREGATE AMOUNT OF THE LOSS IS LESS THAN
14 \$50,000, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
15 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$25,000
16 OR BOTH.

17 (e) Access achieved in violation of this section under a single scheme or a
18 continuing course of conduct may be considered as one violation.

19 (f) A court of competent jurisdiction may try a person prosecuted under this
20 section in any county in this State where:

21 (1) the defendant performed the act; or

22 (2) the accessed computer is located.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.