

# HOUSE BILL 778

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HB 195/04 – JUD

0lr0989

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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**

Introduced and read first time: February 9, 2010

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes – Unauthorized Computer Access for Sabotage of State Government**  
3 **or Public Utilities**

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  
11 of computer services to interrupt or impair the State government or certain  
12 public utility services.

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Law  
15 Section 7–302  
16 Annotated Code of Maryland  
17 (2002 Volume and 2009 Supplement)

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

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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.



1 **Article – Criminal Law**

2 7–302.

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

4 (2) “Access” means to instruct, communicate with, store data in,  
5 retrieve or intercept data from, or otherwise use the resources of a computer program,  
6 computer system, or computer network.7 (3) (i) “Aggregate amount” means a direct loss of property or  
8 services incurred by a victim.

9 (ii) “Aggregate amount” includes:

10 1. the value of any money, property, or service lost,  
11 stolen, or rendered unrecoverable by the crime; or12 2. any actual reasonable expenditure incurred by the  
13 victim to verify whether a computer program, computer, computer system, or  
14 computer network was altered, acquired, damaged, deleted, disrupted, or destroyed by  
15 access in violation of this section.16 (4) (i) “Computer” means an electronic, magnetic, optical, organic,  
17 or other data processing device or system that performs logical, arithmetic, memory, or  
18 storage functions.19 (ii) “Computer” includes property, a data storage facility, or a  
20 communications facility that is directly related to or operated with a computer.21 (iii) “Computer” does not include an automated typewriter, a  
22 typesetter, or a portable calculator.23 (5) “Computer control language” means ordered statements that direct  
24 a computer to perform specific functions.25 (6) “Computer database” means a representation of information,  
26 knowledge, facts, concepts, or instructions that:27 (i) is intended for use in a computer, computer system, or  
28 computer network; and29 (ii) 1. is being prepared or has been prepared in a  
30 formalized manner; or

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

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

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

7                   (ii)  terminals or a complex consisting of two or more  
8 interconnected computers regardless of whether the interconnection is continuously  
9 maintained.

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

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

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

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

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

21                  (c)   (1)   A person may not intentionally, willfully, and without  
22 authorization:

23                   (i)   access, attempt to access, cause to be accessed, or exceed the  
24 person’s authorized access to all or part of a computer network, computer control  
25 language, computer, computer software, computer system, computer service, or  
26 computer database; or

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

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

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

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

4 (3) A person may not intentionally, willfully, and without  
 5 authorization:

6 (i) possess, identify, or attempt to identify a valid access code;  
 7 or

8 (ii) publicize or distribute a valid access code to an unauthorized  
 9 person.

10 (4) A PERSON MAY NOT COMMIT AN ACT PROHIBITED UNDER  
 11 THIS SUBSECTION WITH THE INTENT TO INTERRUPT OR IMPAIR THE  
 12 FUNCTIONING OF:

13 (I) THE STATE GOVERNMENT; ~~OR~~

14 (II) A SERVICE, DEVICE, OR SYSTEM RELATED TO THE  
 15 PRODUCTION, TRANSMISSION, DELIVERY, OR STORAGE OF ELECTRICITY OR  
 16 NATURAL GAS IN THE STATE THAT IS OWNED, OPERATED, OR CONTROLLED BY A  
 17 PERSON OTHER THAN A PUBLIC SERVICE COMPANY, AS DEFINED IN § 1-101 OF  
 18 THE PUBLIC UTILITY COMPANIES ARTICLE; OR

19 ~~(II)~~ (III) A SERVICE PROVIDED IN THE STATE BY A PUBLIC  
 20 SERVICE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY  
 21 COMPANIES ARTICLE.

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

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

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

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

32 (3) A PERSON WHO VIOLATES SUBSECTION (C)(4) OF THIS  
 33 SECTION:

1                   **(I) IF THE AGGREGATE AMOUNT OF THE LOSS IS \$50,000**  
 2 **OR MORE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**  
 3 **IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000**  
 4 **OR BOTH; OR**

5                   **(II) IF THE AGGREGATE AMOUNT OF THE LOSS IS LESS THAN**  
 6 **\$50,000, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**  
 7 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$25,000**  
 8 **OR BOTH.**

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

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

13                   (1) the defendant performed the act; or

14                   (2) the accessed computer is located.

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.