BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
319-32 (LS) P.L. 32-175	T.A. Morrison	AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT,"	04/14/14 12:32 p.m.	04/14/14	Committee on the Guam U. S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary	04/28/14 9 a.m.	6/16/14 4:14 p.m.	**Fiscal Note Request 4/15/14 Fiscal Note Received 7/14/14**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
	7/1/2014	AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT."	7/2/14	9:10 a.m.	07/14/14	7/9/2014	32-175	**PASSED**
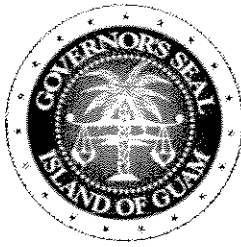
JUL 1 5 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 319-32 (LS) **"AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT"** which I signed into law on July 9, 2014 as **Public Law 32-175.**

Senseramente,

EDDIE BAZA CALVO

32-14-1836
Office of the Speaker
Judith T. Won Pat, Ed.D.
Date 7/15/14
Time 2:17pm
Received By Carl Sanchez

1836

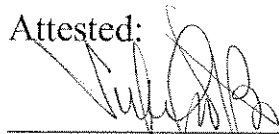# I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 319-32 (LS)**, **"AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT,"** was on the 1st day of July, 2014, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 2ⁿᵈ day of July, 2014, at 9:10 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: JUL 0 9 2014

Public Law No. 32-175

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 319-32 (LS)

Introduced by:

Tommy Morrison
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT."

1   **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2   **Section 1.**   A new Article 6 is *added* to Chapter 46 of Title 9, Guam Code

3   Annotated, to read:

4   "**ARTICLE 6**

5   **COMPUTER SPYWARE PROTECTION ACT**

1   **§ 46.601.**   **Title.** This Act may be cited as the "Computer Spyware

2   Protection Act."

3   **§ 46.602.**   **Legislative Findings and Intent.** *I Liheslaturan*

4   *Guåhan* finds that spyware is a problem that adversely affects nearly every

5   computer connected to the internet. Spyware is a catch-all term for computer

6   programs that can track computer users' movements online. There are

7   hundreds of programs that range from innocuous "ad-ware," which

8   generates pop-up advertisements, to more dangerous programs that can

9   record a user's keystrokes to gather personal information, such as credit card

10   numbers and passwords, without their knowledge, and forward this

11   information to another entity without the consumer's consent. Spyware is a

12   serious problem that can create substantial privacy risks, increase the risk of

13   identity theft, and cause serious degradation to personal and business

14   computers that can cost millions of dollars in lost productivity.

15   It is the intent of *I Liheslatura* to protect owners and operators of

16   computers on Guam from the use of spyware and malware that is

17   deceptively or surreptitiously installed on the owner's or the operator's

18   computer.

19   **§ 46.603.**   **Definitions.**

20   (a)   *Cause to be copied* means to distribute or transfer

21   computer software, or any component thereof. Such term *shall not*

22   include providing:

23   (1)   a transmission, routing, provision of intermediate

24   temporary storage, or caching of software;

25   (2)   a storage or hosting medium, such as a compact

26   disk, website, or computer server through which the software

27   was distributed by a third party; or

1   (3)   an information location tool, such as a directory,

2   index, reference, pointer, or hypertext link, through which the

3   user of the computer located the software.

4   (b)   *Computer software* means a sequence of instructions

5 written in any programming language that is executed on a computer.

6 Computer software *does not* include a data component of a web page

7 that is *not* executable independently of the web page.

8   (c)   *Computer virus* means a computer program or other set

9 of instructions that is designed to degrade the performance of, or

10 disable, a computer or computer network, and is designed to have the

11 ability to replicate itself on other computers or computer networks

12 without the authorization of the owners of those computers or

13 computer networks.

14   (d)   *Damage* means any significant impairment to the

15 integrity or availability of data, software, a system, or information.

16   (e)   *Execute*, when used with respect to computer software,

17 means the performance of the functions or the carrying out of the

18 instructions of the computer software.

19   (f)   *Intentionally deceptive* means any of the following:

20   (1)   an intentionally and materially false or fraudulent

21 statement;

22   (2)   a statement or description that intentionally omits

23 or misrepresents material information in order to deceive an

24 owner or operator of a computer;or

25   (3)   an intentional and material failure to provide a

26 notice to an owner or operator regarding the installation or

1　execution of computer software for the purpose of deceiving the

2　owner or operator.

3　(g) *Internet* means the global information system that is

4　logically linked together by a globally unique address space based on

5　the internet protocol (IP), or its subsequent extensions, and that is able

6　to support communications using the transmission control

7　protocol/internet protocol (TCP/IP) suite, or its subsequent extensions,

8　or other IP-compatible protocols, and that provides, uses, or makes

9　accessible, either publicly or privately, high-level services layered on

10　the communications and related infrastructure described in this

11　Subsection.

12　(h) *Owner* or *operator* means the owner or lessee of a

13　computer, or a person using such computer with the owner or lessee's

14　authorization, but *does not* include a person who owned a computer

15　prior to the first retail sale of the computer.

16　(i) *Message* means a graphical or text communication

17　presented to an authorized user of a computer.

18　(j) *Person* means any individual, partnership, corporation,

19　limited liability company, or other organization, or any combination

20　thereof.

21　(k) *Personally identifiable information* means any of the

22　following information if it allows the entity holding the information to

23　identify the owner or operator of a computer:

24　(1) the first name or first initial in combination with

25　the last name;

26　(2) a home or other physical address including street

27　name;

1   (3)   a personal identification code in conjunction with a

2   password required to access an identified account, other than a

3   password, personal identification number or other identification

4   number transmitted by an authorized user to the issuer of the

5   account or its agent;

6   (4)   a social security number, tax identification

7   number, driver's license number, passport number, or any other

8   government-issued identification number; or

9   (5)   an account balance, overdraft history, or payment

10   history that personally identifies an owner or operator of a

11   computer.

12   **§ 46.604.   Prohibitions, Use of Software.**

13   It is unlawful for a person who is *not* an owner or operator of a

14   computer to cause computer software to be copied on such computer

15   knowingly or with conscious avoidance of actual knowledge or willfully,

16   and to use such software to do any of the following:

17   (a)   modify, through intentionally deceptive means, settings

18   of a computer that control any of the following:

19   (1)   the web page that appears when an owner or

20   operator launches an internet browser or similar computer

21   software used to access and navigate the internet;

22   (2)   the default provider or web proxy that an owner or

23   operator uses to access or search the internet; or

24   (3)   an owner's or an operator's list of bookmarks used

25   to access web pages;

26   (b)   collect, through intentionally deceptive means, personally

27   identifiable information through any of the following means:

(1)   the use of a keystroke-logging function that records all or substantially all keystrokes made by an owner or operator of a computer and transfers that information from the computer to another person;

(2)   in a manner that correlates personally identifiable information with data regarding all or substantially all of the websites visited by an owner or operator, other than websites operated by the person providing such software, if the computer software was installed in a manner designed to conceal from all authorized users of the computer the fact that the software is being installed;

(3)   by extracting from the hard drive of an owner's or an operator's computer, an owner's or an operator's social security number, tax identification number, driver's license number, passport number, any other government-issued identification number, account balances, or overdraft history for a purpose unrelated to any of the purposes of the software or service described to an authorized user;

(c)   prevent, through intentionally deceptive means, an owner's or an operator's reasonable efforts to block the installation of or execution of, or to disable, computer software by causing computer software that the owner or operator has properly removed or disabled to automatically reinstall or reactivate on the computer without the authorization of an authorized user;

(d)   intentionally misrepresent that computer software will be uninstalled or disabled by an owner's or an operator's action;

(e) through intentionally deceptive means, remove, disable, or render inoperative security, antispyware, or antivirus computer software installed on an owner's or an operator's computer;

(f) enable use of an owner's or an operator's computer to do any of the following:

(1) accessing or using a modem or internet service for the purpose of causing damage to an owner's or an operator's computer, or causing an owner or operator, or a third party affected by such conduct to incur financial charges for a service that the owner or operator did not authorize;

(2) opening multiple, sequential, stand-alone messages in an owner's or an operator's computer without the authorization of an owner or operator, and with knowledge that a reasonable computer user could not close the messages without turning off the computer or closing the software application in which the messages appear; provided, that this Subsection *shall not* apply to communications originated by the computer's operating system, originated by a software application that the user chooses to activate, originated by a service provider that the user chooses to use, or presented for any of the purposes described in §46.606;

(3) transmitting or relaying commercial electronic mail or a computer virus from the computer, where the transmission or relaying is initiated by a person other than the authorized user and without the authorization of an authorized user;

(g)   modify any of the following settings related the computer's access to, or use of, the internet:

(1)   settings that protect information about an owner or operator for the purpose of taking personally identifiable information of the owner or operator;

(2)   security settings for the purpose of causing damage to a computer; or

(3)   settings that protect the computer from the uses identified in Subsection (f) of this Section.

(h)   prevent, without the authorization of an owner or operator, an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by doing any of the following:

(1)   presenting the owner or operator with an option to decline installation of computer software with knowledge that, when the option is selected by the authorized user, the installation nevertheless proceeds;

(2)   falsely representing that computer software has been disabled;

(3)   requiring in an intentionally deceptive manner the user to access the internet to remove the software with knowledge or reckless disregard of the fact that the software frequently operates in a manner that prevents the user from accessing the internet;

(4)   changing the name, location or other designation information of the software for the purpose of preventing an authorized user from locating the software to remove it;

(5) using randomized or intentionally deceptive filenames, directory folders, formats, or registry entries for the purpose of avoiding detection and removal of the software by an authorized user;

(6) causing the installation of software in a particular computer directory or computer memory for the purpose of evading authorized users' attempts to remove the software from the computer; or

(7) requiring, without the authority of the owner of the computer, that an authorized user obtain a special code or download software from a third party to uninstall the software.

§ 46.605.   Other Prohibitions.

It is unlawful for a person who is *not* an owner or operator of a computer to do any of the following with regard to the computer:

(a) induce an owner or operator to install a computer software component onto the owner's or the operator's computer by intentionally misrepresenting that installing computer software is necessary for security or privacy reasons or in order to open, view, or play a particular type of content; or

(b) using intentionally deceptive means to cause the execution of a computer software component with the intent of causing the computer to use such component in a manner that violates any other provision of this Article.

§ 46.606.   Exceptions.

§§ 46.604 and 46.605 *shall not* apply to the monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier,

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cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, network management, authorized updates of computer software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this Article.

§ 46.607.   Remedies.

(a)   The Attorney General, an internet service provider or software company that expends resources in good faith assisting authorized users harmed by a violation of this Article, or a trademark owner whose mark is used to deceive authorized users in violation of this Article, may bring a civil action against a person who violates any provision of this Article to recover actual damages, liquidated damages of *at least* One Thousand Dollars ($1,000) per violation of this Article, not to exceed One Million Dollars ($1,000,000) for a pattern or practice of such violations, attorney fees, and costs.

(b)   The court may increase a damage award to an amount equal to not more than three times the amount otherwise recoverable under subsection 1 if the court determines that the defendant committed the violation willfully and knowingly.

(c)   The court may reduce liquidated damages recoverable under subsection 1, to a minimum of one hundred dollars, not to exceed one hundred thousand dollars for each violation if the court

finds that the defendant established and implemented practices and procedures reasonably designed to prevent a violation of this Article.

(d)   In the case of a violation of §46.604(f)(1) that causes a telecommunications carrier or provider of voice over internet protocol service to incur costs for the origination, transport, or termination of a call triggered using the modem or internet-capable device of a customer of such telecommunications carrier or provider as a result of such violation, the telecommunications carrier may bring a civil action against the violator to recover any or all of the following:

(1)   the charges such carrier or provider is obligated to pay to another carrier or to an information service provider as a result of the violation, including, but *not* limited to, charges for the origination, transport or termination of the call;

(2)   costs of handling customer inquiries or complaints with respect to amounts billed for such calls;

(3)   costs and a reasonable attorney's fee; and

(4)   an order to enjoin the violation.

(e)   For purposes of a civil action under Subsections (a), (b) and (c), any single action or conduct that violates more than one Subsection of this Article *shall* be considered multiple violations based on the number of such Subsections violated.

§ 46.608.   Good Samaritan.

(a)   No provider of computer software or of an interactive computer service may be held liable for identifying, naming, removing, disabling, or otherwise affecting a computer program through any action voluntarily undertaken, or service provided, where the provider:

1   (1)   intends to identify accurately, prevent the
2   installation or execution of, remove, or disable another
3   computer program on a computer of a customer of such
4   provider;

5   (2)   reasonably believes the computer program exhibits
6   behavior that violates this Act; and

7   (3)   notifies the authorized user and obtains clear and
8   conspicuous consent before undertaking such action or
9   providing such service.

10   (b)   A provider of computer software or interactive computer
11 service is entitled to protection under this Section *only* if such
12 provider:

13   (1)   has established internal practices and procedures to
14   evaluate computer programs reasonably designed to determine
15   whether or not a computer program exhibits behavior that
16   violates this Act; and

17   (2)   has established a process for managing disputes
18   and inquiries regarding misclassification or false positive
19   identifications of computer programs. Nothing in this Section is
20   intended to limit the ability of the Attorney General, or a
21   District Attorney, to bring an action against a provider of
22   computer software or of an interactive computer service."

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

July 1, 2014

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 249-32 (COR), 312-32 (LS), 316-32 (LS), 317-32 (LS), 318-32 (COR), 319-32 (LS), 340-32 (COR) and 355-32 (COR), which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on July 1, 2014.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosures (8)

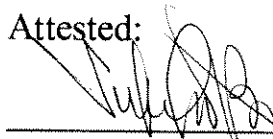# I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 319-32 (LS), "AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT,"** was on the 1st day of July, 2014, duly and regularly passed.
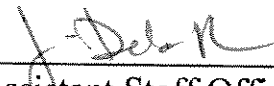
_____
Judith T. Won Pat, Ed.D.
Speaker

Attested:

_____
Tina Rose Muña Barnes
Legislative Secretary

- -

This Act was received by *I Maga'lahen Guåhan* this _____ day of _____,
2014, at _____ o'clock _____.M.

_____
Assistant Staff Officer
Maga'lahi's Office

APPROVED:

_____
EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 319-32 (LS)

Introduced by:

Tommy Morrison
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
T. R. Muña Barnes
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R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 6 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER SPYWARE PROTECTION ACT."

1   **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2   **Section 1.** A new Article 6 is *added* to Chapter 46 of Title 9, Guam Code

3   Annotated, to read:

4   **"ARTICLE 6**

5   **COMPUTER SPYWARE PROTECTION ACT**

§ 46.601.   Title. This Act may be cited as the "Computer Spyware Protection Act."

§ 46.602.   **Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that spyware is a problem that adversely affects nearly every computer connected to the internet. Spyware is a catch-all term for computer programs that can track computer users' movements online. There are hundreds of programs that range from innocuous "ad-ware," which generates pop-up advertisements, to more dangerous programs that can record a user's keystrokes to gather personal information, such as credit card numbers and passwords, without their knowledge, and forward this information to another entity without the consumer's consent. Spyware is a serious problem that can create substantial privacy risks, increase the risk of identity theft, and cause serious degradation to personal and business computers that can cost millions of dollars in lost productivity.

It is the intent of *I Liheslatura* to protect owners and operators of computers on Guam from the use of spyware and malware that is deceptively or surreptitiously installed on the owner's or the operator's computer.

§ 46.603.   **Definitions.**

(a)   *Cause to be copied* means to distribute or transfer computer software, or any component thereof. Such term *shall not* include providing:

(1)   a transmission, routing, provision of intermediate temporary storage, or caching of software;

(2)   a storage or hosting medium, such as a compact disk, website, or computer server through which the software was distributed by a third party; or

1

2

3

(3)   an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of the computer located the software.

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(b)   *Computer software* means a sequence of instructions written in any programming language that is executed on a computer. Computer software *does not* include a data component of a web page that is *not* executable independently of the web page.

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(c)   *Computer virus* means a computer program or other set of instructions that is designed to degrade the performance of, or disable, a computer or computer network, and is designed to have the ability to replicate itself on other computers or computer networks without the authorization of the owners of those computers or computer networks.

14

15

(d)   *Damage* means any significant impairment to the integrity or availability of data, software, a system, or information.

16

17

18

(e)   *Execute*, when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.

19

(f)   *Intentionally deceptive* means any of the following:

20

21

(1)   an intentionally and materially false or fraudulent statement;

22

23

24

(2)   a statement or description that intentionally omits or misrepresents material information in order to deceive an owner or operator of a computer;or

25

26

(3)   an intentional and material failure to provide a notice to an owner or operator regarding the installation or

1 execution of computer software for the purpose of deceiving the

2 owner or operator.

3 (g) *Internet* means the global information system that is

4 logically linked together by a globally unique address space based on

5 the internet protocol (IP), or its subsequent extensions, and that is able

6 to support communications using the transmission control

7 protocol/internet protocol (TCP/IP) suite, or its subsequent extensions,

8 or other IP-compatible protocols, and that provides, uses, or makes

9 accessible, either publicly or privately, high-level services layered on

10 the communications and related infrastructure described in this

11 Subsection.

12 (h) *Owner* or *operator* means the owner or lessee of a

13 computer, or a person using such computer with the owner or lessee's

14 authorization, but *does not* include a person who owned a computer

15 prior to the first retail sale of the computer.

16 (i) *Message* means a graphical or text communication

17 presented to an authorized user of a computer.

18 (j) *Person* means any individual, partnership, corporation,

19 limited liability company, or other organization, or any combination

20 thereof.

21 (k) *Personally identifiable information* means any of the

22 following information if it allows the entity holding the information to

23 identify the owner or operator of a computer:

24 (1) the first name or first initial in combination with

25 the last name;

26 (2) a home or other physical address including street

27 name;

(3)   a personal identification code in conjunction with a password required to access an identified account, other than a password, personal identification number or other identification number transmitted by an authorized user to the issuer of the account or its agent;

(4)   a social security number, tax identification number, driver's license number, passport number, or any other government-issued identification number; or

(5)   an account balance, overdraft history, or payment history that personally identifies an owner or operator of a computer.

§ 46.604.   Prohibitions, Use of Software.

It is unlawful for a person who is *not* an owner or operator of a computer to cause computer software to be copied on such computer knowingly or with conscious avoidance of actual knowledge or willfully, and to use such software to do any of the following:

(a)   modify, through intentionally deceptive means, settings of a computer that control any of the following:

(1)   the web page that appears when an owner or operator launches an internet browser or similar computer software used to access and navigate the internet;

(2)   the default provider or web proxy that an owner or operator uses to access or search the internet; or

(3)   an owner's or an operator's list of bookmarks used to access web pages;

(b)   collect, through intentionally deceptive means, personally identifiable information through any of the following means:

(1)   the use of a keystroke-logging function that records all or substantially all keystrokes made by an owner or operator of a computer and transfers that information from the computer to another person;

(2)   in a manner that correlates personally identifiable information with data regarding all or substantially all of the websites visited by an owner or operator, other than websites operated by the person providing such software, if the computer software was installed in a manner designed to conceal from all authorized users of the computer the fact that the software is being installed;

(3)   by extracting from the hard drive of an owner's or an operator's computer, an owner's or an operator's social security number, tax identification number, driver's license number, passport number, any other government-issued identification number, account balances, or overdraft history for a purpose unrelated to any of the purposes of the software or service described to an authorized user;

(c)   prevent, through intentionally deceptive means, an owner's or an operator's reasonable efforts to block the installation of or execution of, or to disable, computer software by causing computer software that the owner or operator has properly removed or disabled to automatically reinstall or reactivate on the computer without the authorization of an authorized user;

(d)   intentionally misrepresent that computer software will be uninstalled or disabled by an owner's or an operator's action;

(e) through intentionally deceptive means, remove, disable, or render inoperative security, antispyware, or antivirus computer software installed on an owner's or an operator's computer;

(f) enable use of an owner's or an operator's computer to do any of the following:

(1) accessing or using a modem or internet service for the purpose of causing damage to an owner's or an operator's computer, or causing an owner or operator, or a third party affected by such conduct to incur financial charges for a service that the owner or operator did not authorize;

(2) opening multiple, sequential, stand-alone messages in an owner's or an operator's computer without the authorization of an owner or operator, and with knowledge that a reasonable computer user could not close the messages without turning off the computer or closing the software application in which the messages appear; provided, that this Subsection *shall not* apply to communications originated by the computer's operating system, originated by a software application that the user chooses to activate, originated by a service provider that the user chooses to use, or presented for any of the purposes described in §46.606;

(3) transmitting or relaying commercial electronic mail or a computer virus from the computer, where the transmission or relaying is initiated by a person other than the authorized user and without the authorization of an authorized user;

(g)   modify   any   of   the   following   settings   related   the computer's access to, or use of, the internet:

(1)   settings that protect information about an owner or operator for the purpose of taking personally identifiable information of the owner or operator;

(2)   security settings for the purpose of causing damage to a computer; or

(3)   settings that protect the computer from the uses identified in Subsection (f) of this Section.

(h)   prevent, without the authorization of an owner or operator, an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by doing any of the following:

(1)   presenting the owner or operator with an option to decline installation of computer software with knowledge that, when the option is selected by the authorized user, the installation nevertheless proceeds;

(2)   falsely representing that computer software has been disabled;

(3)   requiring in an intentionally deceptive manner the user to access the internet to remove the software with knowledge or reckless disregard of the fact that the software frequently operates in a manner that prevents the user from accessing the internet;

(4)   changing the name, location or other designation information of the software for the purpose of preventing an authorized user from locating the software to remove it;

(5)   using randomized or intentionally deceptive filenames, directory folders, formats, or registry entries for the purpose of avoiding detection and removal of the software by an authorized user;

(6)   causing the installation of software in a particular computer directory or computer memory for the purpose of evading authorized users' attempts to remove the software from the computer; or

(7)   requiring, without the authority of the owner of the computer, that an authorized user obtain a special code or download software from a third party to uninstall the software.

§ 46.605.   Other Prohibitions.

It is unlawful for a person who is *not* an owner or operator of a computer to do any of the following with regard to the computer:

(a)   induce an owner or operator to install a computer software component onto the owner's or the operator's computer by intentionally misrepresenting that installing computer software is necessary for security or privacy reasons or in order to open, view, or play a particular type of content; or

(b)   using intentionally deceptive means to cause the execution of a computer software component with the intent of causing the computer to use such component in a manner that violates any other provision of this Article.

§ 46.606.   Exceptions.

§§ 46.604 and 46.605 *shall not* apply to the monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier,

cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, network management, authorized updates of computer software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this Article.

§ 46.607.   Remedies.

(a)   The Attorney General, an internet service provider or software company that expends resources in good faith assisting authorized users harmed by a violation of this Article, or a trademark owner whose mark is used to deceive authorized users in violation of this Article, may bring a civil action against a person who violates any provision of this Article to recover actual damages, liquidated damages of *at least* One Thousand Dollars ($1,000) per violation of this Article, not to exceed One Million Dollars ($1,000,000) for a pattern or practice of such violations, attorney fees, and costs.

(b)   The court may increase a damage award to an amount equal to not more than three times the amount otherwise recoverable under subsection 1 if the court determines that the defendant committed the violation willfully and knowingly.

(c)   The court may reduce liquidated damages recoverable under subsection 1, to a minimum of one hundred dollars, not to exceed one hundred thousand dollars for each violation if the court

finds that the defendant established and implemented practices and procedures reasonably designed to prevent a violation of this Article.

(d)   In the case of a violation of §46.604(f)(1) that causes a telecommunications carrier or provider of voice over internet protocol service to incur costs for the origination, transport, or termination of a call triggered using the modem or internet-capable device of a customer of such telecommunications carrier or provider as a result of such violation, the telecommunications carrier may bring a civil action against the violator to recover any or all of the following:

(1)   the charges such carrier or provider is obligated to pay to another carrier or to an information service provider as a result of the violation, including, but *not* limited to, charges for the origination, transport or termination of the call;

(2)   costs of handling customer inquiries or complaints with respect to amounts billed for such calls;

(3)   costs and a reasonable attorney's fee; and

(4)   an order to enjoin the violation.

(e)   For purposes of a civil action under Subsections (a), (b) and (c), any single action or conduct that violates more than one Subsection of this Article *shall* be considered multiple violations based on the number of such Subsections violated.

§ 46.608.   Good Samaritan.

(a)   No provider of computer software or of an interactive computer service may be held liable for identifying, naming, removing, disabling, or otherwise affecting a computer program through any action voluntarily undertaken, or service provided, where the provider:

1   (1)   intends to identify accurately, prevent the
2   installation or execution of, remove, or disable another
3   computer program on a computer of a customer of such
4   provider;

5   (2)   reasonably believes the computer program exhibits
6   behavior that violates this Act; and

7   (3)   notifies the authorized user and obtains clear and
8   conspicuous consent before undertaking such action or
9   providing such service.

10   (b)   A provider of computer software or interactive computer
11   service is entitled to protection under this Section *only* if such
12   provider:

13   (1)   has established internal practices and procedures to
14   evaluate computer programs reasonably designed to determine
15   whether or not a computer program exhibits behavior that
16   violates this Act; and

17   (2)   has established a process for managing disputes
18   and inquiries regarding misclassification or false positive
19   identifications of computer programs. Nothing in this Section is
20   intended to limit the ability of the Attorney General, or a
21   District Attorney, to bring an action against a provider of
22   computer software or of an interactive computer service."

LEGISLATIVE SESSION
I MINA'TRENTAI DOS NA LIHESLATURAN
2014 (SECOND) Regular Session
Voting Sheet

BILL NO. 349-32 (LS)

Speaker Antonio R. Unipingco Legislative Session Hall

DATE : 7/1/14

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Vicente (ben) Cabrera PANGELINAN					✓ Ex.
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				
TOTAL	14				1 Ex.
	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent

CERTIFIED TRUE AND CORRECT:

I = Pass

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Clerk of the Legislature