
A BILL FOR AN ACT

RELATING TO COMPUTER CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to part IX to be appropriately
3 designated and to read as follows:

4 "§708- Computer fraud in the third degree. (1) A
5 person commits the offense of computer fraud in the third degree
6 if the person knowingly accesses a computer, computer system, or
7 computer network, including by phishing or the use of spyware,
8 to obtain identifying information, with the intent to commit the
9 offense of theft in the third or fourth degree.

10 (2) Computer fraud in the third degree is a class C
11 felony."

12 SECTION 2. Section 708-890, Hawaii Revised Statutes, is
13 amended by adding six new definitions to be appropriately
14 inserted and to read as follows:

15 "Authorized user" means, with regards to a computer, the
16 owner or lessee of a computer or a person authorized by the
17 owner or lessee to use the computer.



1 "Electronic mail" or "e-mail" means a message sent, posted,
2 or transmitted to a unique destination that is commonly
3 expressed as a string of characters, consisting of a unique user
4 name or mailbox and a reference to an internet domain, whether
5 or not displayed, to which electronic mail can be sent,
6 delivered, or posted.

7 "Identifying information" means a person's:

- 8 (1) Social security number;
9 (2) Driver's license number;
10 (3) Bank account number;
11 (4) Credit or debit card number;
12 (5) Personal identification number;
13 (6) Automated or electronic signature;
14 (7) Unique biometric data;
15 (8) Account password, including any electronic mail or
16 social media account password; or
17 (9) Any other piece of information that can be used to
18 access a person's financial accounts or to obtain
19 goods or services.

20 "Phishing" means to solicit, request, or take any action to
21 induce a person to provide identifying information by the



1 fraudulent use of a website, electronic mail, or otherwise
2 through the Internet.

3 "Spyware" means any computer program or software designed
4 to disrupt or modify an authorized user's access or use of the
5 Internet by deceptive means.

6 "Webpage" or "website" means a location that has a single
7 uniform resource locator with respect to the world wide web or a
8 single location with respect to the Internet."

9 SECTION 3. Section 708-891, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"[+]§708-891[+] Computer fraud in the first degree. (1)**

12 A person commits the offense of computer fraud in the first
13 degree if the person knowingly~~[, and with intent to defraud,~~
14 ~~accesses a computer without authorization and, by means of such~~
15 ~~conduct, obtains or exerts control over the property of another.~~

16 ~~(2) In a prosecution for computer fraud in the first~~
17 ~~degree, it is a defense that the object of the fraud and the~~
18 ~~property obtained consists only of the use of the computer and~~
19 ~~the value of such use is not more than \$300 in any one year~~
20 ~~period.] accesses a computer, computer system, or computer~~
21 network, including by phishing or the use of spyware, to obtain
22 identifying information, with the intent to:



1 (a) Facilitate the commission of a murder in any degree,
 2 any class A felony, kidnapping, unlawful imprisonment
 3 in any degree, extortion in any degree, any offense
 4 under chapter 134, criminal property damage in the
 5 first or second degree, escape in any degree, any
 6 offense under part VI of chapter 710, any offense
 7 under section 711-1103, or any offense under chapter
 8 842; or

9 (b) Commit the offense of theft in the first degree.

10 ~~[(3)]~~ (2) Computer fraud in the first degree is a class [B]
 11 A felony."

12 SECTION 4. Section 708-891.5, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 **"~~[(1)]~~§708-891.5~~[(1)]~~ Computer fraud in the second degree.**

15 (1) A person commits the offense of computer fraud in the
 16 second degree if the person knowingly~~[, and with the intent to~~
 17 ~~defraud, transfers, or otherwise disposes of, to another, or~~
 18 ~~obtains control of, with the intent to transfer or dispose of,~~
 19 ~~any password or similar information through which a computer,~~
 20 ~~computer system, or computer network may accessed.]~~ accesses a
 21 computer, computer system, or computer network, including by
 22 phishing or the use of spyware, to obtain identifying



1 information, with the intent to commit the offense of theft in
2 the second degree.

3 (2) Computer fraud in the second degree is a class [E] B
4 .felony."

5 SECTION 5. Section 708-895.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§708-895.5[+] **Unauthorized computer access in the**
8 **first degree.** (1) A person commits the offense of unauthorized
9 computer access in the first degree if the person knowingly
10 accesses a computer, computer system, or computer network
11 without authorization, including by phishing or the use of
12 spyware, and thereby obtains identifying information, and:

- 13 (a) The offense was committed for the purpose of
- 14 commercial or private financial gain;
- 15 (b) The offense was committed in furtherance of any other
- 16 crime;
- 17 (c) The value of the identifying information obtained
- 18 exceeds [~~\$5,000,~~] \$20,000; or
- 19 (d) The identifying information has been determined by
- 20 statute or rule of court to require protection against
- 21 unauthorized disclosure.



1 (2) Unauthorized computer access in the first degree is a
2 class [B] A felony."

3 SECTION 6. Section 708-895.6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§708-895.6[+]~~ **Unauthorized computer access in the**
6 **second degree.** (1) A person commits the offense of
7 unauthorized computer access in the second degree if the person
8 knowingly accesses a computer, computer system, or computer
9 network without authorization, including by phishing or the use
10 of spyware, and thereby obtains identifying information.

11 (2) Unauthorized computer access in the second degree is a
12 class [E] B felony."

13 SECTION 7. Section 708-895.7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[+]§708-895.7[+]~~ **Unauthorized computer access in the**
16 **third degree.** (1) A person commits the offense of unauthorized
17 computer access in the third degree if the person knowingly
18 accesses a computer, computer system, or computer network
19 without authorization~~[-]~~, including by phishing or the use of
20 spyware.

21 (2) Unauthorized computer access in the third degree is a
22 [~~misdemeanor-~~] class C felony."



1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on January 7, 2059.



Report Title:

Computer Crime; Phishing; Spyware

Description:

Adds new definitions to computer crime. Creates a third degree of computer fraud and incorporates the element of phishing and spyware into all computer fraud offenses and unauthorized computer access offenses. Increases the class penalty for each of those offenses. Effective 01/07/59. (SD1)

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