

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 2904

"TO PROTECT CONSUMERS FROM THE IMPROPER USE OF COMPUTER SPYWARE."

Amendment No. 1 to House Bill No. 2904.

Amend House Bill No. 2904 as originally introduced:

Page 1, line 32 delete "(2)(A)" and substitute "(2)"

AND

Page 1, delete lines 34 through 36

AND

Page 2, delete lines 3 and 4 and substitute the following:

"installation when the programs are wholly unrelated to the purpose of the installation as described to the authorized user;

(4)(A) "Caused to be copied" means to distribute or transfer computer software or any component of computer software.

(B) "Caused to be copied" does not include providing:

(i) Transmission, routing, intermediate temporary storage, or caching of software;

(ii) A compact disk, website, computer server, or other storage medium through which the software was distributed by a third party; or

(iii) A directory, index, reference, pointer, hypertext link, or other information location tool through which the user of the computer located the software;"

AND

Page 2, line 5 delete "(4)" and substitute "(5)"

AND

Page 2, line 6 delete "computer;" and substitute "computer, but does not include a text or data file, including a cookie;"

AND



Page 2, line 7 delete "(5)" and substitute "(6)"

AND

Page 2, line 14 delete "(6)" and substitute "(7)"

AND

Page 2, delete lines 17 through 23 and substitute the following:

"(A) Significant and intentional degradation of the performance of a computer or a computer network; or

(B) Intentional disabling of a computer or computer network;"

AND

Page 2, line 24 delete "(7)" and substitute "(8)"

AND

Page 2, line 29 delete "(8)" and substitute "(9)"

AND

Page 2, line 32 delete "(9)" and substitute "(10)"

AND

Page 3, line 2 delete "(10)" and substitute "(11)"

AND

Page 3, line 12 delete "(11)" and substitute "(12)"

AND

Page 3, line 24 delete "subdivision (11)" and substitute "subdivision (12)"

AND

Page 3, delete lines 25 through 36 and substitute the following:

"(13) "Internet address" means a specific location on the Internet accessible through a universal resource locator or Internet protocol address;"

AND

Page 4, delete lines 1 through 15

AND

Page 4, delete lines 18 and 19 and substitute the following:

"(15) "Personally identifiable information" means any of the following if it allows the entity holding the information to identify an authorized user by:"

AND

Page 4, delete lines 24 through 26 and substitute the following:

"(C) A password or personal identification number or other identification required to access an identified account other than a password, personal identification number, or other identification transmitted by an authorized user to the issuer of the account or its agent;"

AND

Page 4, line 27 delete "(E)" and substitute "(D)"

AND

Page 4, line 28 delete "(F)" and substitute "(E)"

AND

Page 4, line 36 delete "purchases;" and substitute "purchases; and"

AND

Page 5, line 1 delete ", "brand spoofing", or "carding""

AND

Page 5, line 4 delete "fraud;" and substitute "fraud."

AND

Page 5, delete lines 5 through 14

AND

Page 5, line 28 delete "Internet; or" and substitute "Internet;"

AND

Page 5, delete line 30 and substitute the following:

"web pages; or

(D) Settings in computer software or in a text or data file on the computer that are used to resolve a universal resource locator or other location identifier used to access a public or private network;"

AND

Page 5, delete line 33 and substitute the following:

"(A) Is collected through the use of a keystroke-logging function that records all keystrokes made by an authorized user that uses the computer and transmits the information from the computer to another person;"

AND

Page 6, line 2 delete "or"

AND

Page 6, line 3 delete "a data element described in § 4-110-102(15) that is"

AND

Page 6, delete line 5 and substitute the following:

"the purposes of the software or service as described to the authorized user;
or

(D) Is collected by extracting screen shots of an authorized user's use of the computer for a purpose wholly unrelated to any of the purposes of the software or service as described to the authorized user;"

AND

Page 6, deletes lines 14 through 36 and substitute the following:

"will not be uninstalled or disabled; or

(5) Through intentionally deceptive means remove, disable, or render inoperative security, antispymware, or antivirus software installed on the computer."

AND

Page 7, delete lines 1 through 4

AND

Page 7, delete lines 6 through 9 and substitute the following:

"knowledge, with conscious avoidance of actual knowledge, or willfully:

(1) Cause computer software to be copied onto any computer in this state and use the software to take control of a computer by:"

AND

Page 7, delete line 27 and substitute the following:

"(2) Without authorization obtain the ability to use one (1) or more computers of other end users on a network to send commercial electronic mail, to damage other computers, or to locate other computers vulnerable to an attack without:

(A) Notice to or knowledge of the owners of the computers or computer networks; or

(B) A prior or existing personal, business, or contractual relationship with the owner or owners of the computer or computer networks;

(3) Modify any of the following settings related to the"

AND

Page 7, line 34 delete "(3)" and substitute "(4)"

AND

Page 7, delete line 36 and substitute "software by presenting the authorized user with an option to"

AND

Page 8, delete line 1

AND

Page 8 delete lines 4 through 17 and substitute the following:

"(5) Intentionally interfere with an authorized user's attempt to uninstall the software by:

(A) Leaving behind without authorization on the authorized user's computer for the purpose of evading an authorized user's attempt to remove the software from the computer hidden elements of the software that are designed to and will reinstall the software or portions of the software;

(B) Intentionally causing damage to or removing any vital component of the operating system;

(C) Falsely representing that software has been disabled;

(D) 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;

(E) Using randomized or intentionally deceptive file names, directory folders, formats, or registry entries for the purpose of avoiding detection and removal of the software by an authorized user;

(F) Causing the installation of software in a particular computer directory or computer memory for the purpose of evading an authorized user's attempt to remove the software from the computer;

(G) Requiring completion of a survey to uninstall software unless reasonably related to the uninstallation; or

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

AND

Page 8, line 23 delete "software;" and substitute "software; or"

AND

Page 8, delete lines 27 through 32 and substitute the following:

"section.

(d) No person shall engage in phishing.

(e) A person that is not an authorized user shall not with actual

knowledge, with conscious avoidance of actual knowledge, or willfully cause computer software to be copied onto any computer in this state to carry out any of the violations described in subsections (a) -- (d) of this section for a purpose wholly unrelated to any of the purposes of the software or service as described to the authorized user if the software is installed in an intentionally deceptive manner that:

(1) Exploits a security vulnerability in the computer; or

(2) Bundles the software with other software without providing prior notice to the authorized user of the name of the software and that the software will be installed on the computer.

(f) Any provision of a consumer contract that permits an intentionally deceptive practice prohibited under this section is not enforceable.

(g) This section shall not apply to any"

AND

Page 9, delete lines 11 and 12 and substitute the following:

"(F) Authorized remote system management;

(G) Network management or maintenance; or

(H) Detection or prevention of the unauthorized use or"

AND

Page 9, line 16 delete "(f)" and substitute "(i)"

AND

Page 9, line 19 delete "previous"

AND

Page 9, delete line 30 and substitute the following:

"4-110-105. Use of Spyware Monitoring Fund."

AND

Page 9, delete lines 33 through 36 and substitute the following:

"be used by the Attorney General to:

(1) Investigate potential violations and enforce the provisions of this subchapter; and

(2) Establish and maintain a website to:

(A) Provide information concerning:

(i) The availability of computer software to combat

spyware; and

(ii) False representations about the effectiveness

of specific antispware software;

(B) Promote consumer awareness about spyware, antispware, and computer fraud;

(C) Educate consumers about:

(i) Spyware, computer fraud, and the effects of spyware and computer fraud upon consumer privacy and computer systems; and

(ii) How to access or obtain computer software to

combat spyware; and

(D) Provide consumers with links to antispyware websites with helpful information.

(b) The Attorney General is authorized to request an appropriation from the fund to offset his or her salary and administrative expenses directly related to the enforcement of this subchapter and the administration of the website."

AND

Page 10, delete lines 1 through 21

AND

Page 10, delete lines 27 through 36 and substitute the following:
"Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Spyware Monitoring Fund" to be used by the Attorney General to offset his or her salary and administrative expenses directly related to the enforcement of the Consumer Protection Against Computer Spyware Act, § 4-110-101 et seq. and administration of the website required by the act."

AND

Page 11, delete lines 1 and 2

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Capps

DLP/RCK - 04-05-2005 08:51

DLP323

Secretary