



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5371

Introduced 1/31/2022, by Rep. Dan Caulkins

SYNOPSIS AS INTRODUCED:

720 ILCS 5/17-51	was 720 ILCS 5/16D-3
720 ILCS 5/17-53 new	
720 ILCS 5/17-54	was 720 ILCS 5/16D-7

Amends the Criminal Code of 2012. Provides that a person commits computer tampering when he or she knowingly and without the authorization of a computer's owner or in excess of the authority granted to him or her falsifies or forges electronic mail transmission information or other routing information in any manner in connection with delivery of code, software, or hyperlinks to deliver software or code designed to manipulate a computer to allow for remote manipulation without the computer owner's permission (rather than the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers). Provides that computer tampering by knowingly and without authorization of a computer's owner or in excess of the authority granted to him or her: (1) accessing or causing to be accessed a computer or any part thereof, a computer network, or a program or data; or (2) falsifying or forging electronic mail transmission information or other routing information in any manner in connection with delivery of code, software, or hyperlinks to deliver software or code designed to manipulate a computer to allow for remote manipulation without the computer owner's permission is a Class A (rather than a Class B) misdemeanor. Creates the offense of purchasing hacking software. Provides that a person commits the offense when he or she knowingly purchases hacking software with the intent to use or employ that software for the purpose of introduction into a computer, computer system, or computer network, without the authorization of the computer owner. Provides that a violation is a Class B misdemeanor. Defines "hacking software".

LRB102 25387 RLC 34668 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 17-51 and 17-54 by adding Section 17-53 as
6 follows:

7 (720 ILCS 5/17-51) (was 720 ILCS 5/16D-3)

8 Sec. 17-51. Computer tampering.

9 (a) A person commits computer tampering when he or she
10 knowingly and without the authorization of a computer's owner
11 or in excess of the authority granted to him or her:

12 (1) Accesses or causes to be accessed a computer or
13 any part thereof, a computer network, or a program or
14 data;

15 (2) Accesses or causes to be accessed a computer or
16 any part thereof, a computer network, or a program or
17 data, and obtains data or services;

18 (3) Accesses or causes to be accessed a computer or
19 any part thereof, a computer network, or a program or
20 data, and damages or destroys the computer or alters,
21 deletes, or removes a computer program or data;

22 (4) Inserts or attempts to insert a program into a
23 computer or computer program knowing or having reason to

1 know that such program contains information or commands
2 that will or may:

3 (A) damage or destroy that computer, or any other
4 computer subsequently accessing or being accessed by
5 that computer;

6 (B) alter, delete, or remove a computer program or
7 data from that computer, or any other computer program
8 or data in a computer subsequently accessing or being
9 accessed by that computer; or

10 (C) cause loss to the users of that computer or the
11 users of a computer which accesses or which is
12 accessed by such program; or

13 (5) Falsifies or forges electronic mail transmission
14 information or other routing information in any manner in
15 connection with delivery of code, software, or hyperlinks
16 to deliver software or code designed to manipulate a
17 computer to allow for remote manipulation without the
18 computer owner's permission ~~the transmission of~~
19 ~~unsolicited bulk electronic mail through or into the~~
20 ~~computer network of an electronic mail service provider or~~
21 ~~its subscribers.~~

22 (a-5) Distributing software to falsify routing
23 information. It is unlawful for any person knowingly to sell,
24 give, or otherwise distribute or possess with the intent to
25 sell, give, or distribute software which:

26 (1) is primarily designed or produced for the purpose

1 of facilitating or enabling the falsification of
2 electronic mail transmission information or other routing
3 information;

4 (2) has only a limited commercially significant
5 purpose or use other than to facilitate or enable the
6 falsification of electronic mail transmission information
7 or other routing information; or

8 (3) is marketed by that person or another acting in
9 concert with that person with that person's knowledge for
10 use in facilitating or enabling the falsification of
11 electronic mail transmission information or other routing
12 information.

13 (a-10) For purposes of subsection (a), accessing a
14 computer network is deemed to be with the authorization of a
15 computer's owner if:

16 (1) the owner authorizes patrons, customers, or guests
17 to access the computer network and the person accessing
18 the computer network is an authorized patron, customer, or
19 guest and complies with all terms or conditions for use of
20 the computer network that are imposed by the owner;

21 (2) the owner authorizes the public to access the
22 computer network and the person accessing the computer
23 network complies with all terms or conditions for use of
24 the computer network that are imposed by the owner; or

25 (3) the person accesses the computer network in
26 compliance with the Revised Uniform Fiduciary Access to

1 Digital Assets Act (2015).

2 (b) Sentence.

3 (1) A person who commits computer tampering as set
4 forth in subdivision (a)(1) or (a)(5) or subsection (a-5)
5 of this Section is guilty of a Class A ~~B~~ misdemeanor.

6 (2) A person who commits computer tampering as set
7 forth in subdivision (a)(2) of this Section is guilty of a
8 Class A misdemeanor and a Class 4 felony for the second or
9 subsequent offense.

10 (3) A person who commits computer tampering as set
11 forth in subdivision (a)(3) or (a)(4) of this Section is
12 guilty of a Class 4 felony and a Class 3 felony for the
13 second or subsequent offense.

14 (4) If an injury arises from the transmission of
15 unsolicited bulk electronic mail, the injured person,
16 other than an electronic mail service provider, may also
17 recover attorney's fees and costs, and may elect, in lieu
18 of actual damages, to recover the lesser of \$10 for each
19 unsolicited bulk electronic mail message transmitted in
20 violation of this Section, or \$25,000 per day. The injured
21 person shall not have a cause of action against the
22 electronic mail service provider that merely transmits the
23 unsolicited bulk electronic mail over its computer
24 network.

25 (5) If an injury arises from the transmission of
26 unsolicited bulk electronic mail, an injured electronic

1 mail service provider may also recover attorney's fees and
2 costs, and may elect, in lieu of actual damages, to
3 recover the greater of \$10 for each unsolicited electronic
4 mail advertisement transmitted in violation of this
5 Section, or \$25,000 per day.

6 (6) The provisions of this Section shall not be
7 construed to limit any person's right to pursue any
8 additional civil remedy otherwise allowed by law.

9 (c) Whoever suffers loss by reason of a violation of
10 subdivision (a)(4) of this Section may, in a civil action
11 against the violator, obtain appropriate relief. In a civil
12 action under this Section, the court may award to the
13 prevailing party reasonable attorney's fees and other
14 litigation expenses.

15 (Source: P.A. 99-775, eff. 8-12-16.)

16 (720 ILCS 5/17-53 new)

17 Sec. 17-53. Purchasing hacking software.

18 (a) In this section, "hacking software" means a computer
19 or data contaminant, encryption, or lock that when placed or
20 introduced without authorization into a computer, computer
21 system, or computer network allows the individual who
22 introduced the software to access the computer, computer
23 system, or computer network without the knowledge of the
24 owner.

25 (b) A person commits purchasing hacking software when he

1 or she knowingly purchases hacking software with the intent to
2 use or employ that software for the purpose of introduction
3 into a computer, computer system, or computer network, without
4 the authorization of the computer owner.

5 (c) Sentence. Purchasing hacking software is a Class B
6 misdemeanor.

7 (720 ILCS 5/17-54) (was 720 ILCS 5/16D-7)

8 Sec. 17-54. Evidence of lack of authority. For the
9 purposes of Sections 17-50 through 17-53 ~~17-52~~, the trier of
10 fact may infer that a person accessed a computer without the
11 authorization of its owner or in excess of the authority
12 granted if the person accesses or causes to be accessed a
13 computer, which access requires a confidential or proprietary
14 code which has not been issued to or authorized for use by that
15 person. This Section does not apply to a person who acquires
16 access in compliance with the Revised Uniform Fiduciary Access
17 to Digital Assets Act (2015).

18 (Source: P.A. 99-775, eff. 8-12-16.)