

# 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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## A BILL ENTITLED

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 or a service provided in the State by a  
7 public service company; establishing certain penalties; and generally relating to  
8 the unauthorized access of computer services to interrupt or impair the State  
9 government or certain public utility services.

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

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

17 **Article – Criminal Law**

18 7–302.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) “Access” means to instruct, communicate with, store data in,  
2 retrieve or intercept data from, or otherwise use the resources of a computer program,  
3 computer system, or computer network.

4           (3) (i) “Aggregate amount” means a direct loss of property or  
5 services incurred by a victim.

6                       (ii) “Aggregate amount” includes:

7                               1. the value of any money, property, or service lost,  
8 stolen, or rendered unrecoverable by the crime; or

9                               2. any actual reasonable expenditure incurred by the  
10 victim to verify whether a computer program, computer, computer system, or  
11 computer network was altered, acquired, damaged, deleted, disrupted, or destroyed by  
12 access in violation of this section.

13           (4) (i) “Computer” means an electronic, magnetic, optical, organic,  
14 or other data processing device or system that performs logical, arithmetic, memory, or  
15 storage functions.

16                       (ii) “Computer” includes property, a data storage facility, or a  
17 communications facility that is directly related to or operated with a computer.

18                       (iii) “Computer” does not include an automated typewriter, a  
19 typesetter, or a portable calculator.

20           (5) “Computer control language” means ordered statements that direct  
21 a computer to perform specific functions.

22           (6) “Computer database” means a representation of information,  
23 knowledge, facts, concepts, or instructions that:

24                       (i) is intended for use in a computer, computer system, or  
25 computer network; and

26                       (ii) 1. is being prepared or has been prepared in a  
27 formalized manner; or

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

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

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

1 (ii) terminals or a complex consisting of two or more  
2 interconnected computers regardless of whether the interconnection is continuously  
3 maintained.

4 (8) "Computer program" means an ordered set of instructions or  
5 statements that may interact with related data and, when executed in a computer  
6 system, causes a computer to perform specified functions.

7 (9) "Computer services" includes computer time, data processing, and  
8 storage functions.

9 (10) "Computer software" means a computer program, instruction,  
10 procedure, or associated document regarding the operation of a computer system.

11 (11) "Computer system" means one or more connected or unconnected  
12 computers, peripheral devices, computer software, data, or computer programs.

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

15 (c) (1) A person may not intentionally, willfully, and without  
16 authorization:

17 (i) access, attempt to access, cause to be accessed, or exceed the  
18 person's authorized access to all or part of a computer network, computer control  
19 language, computer, computer software, computer system, computer service, or  
20 computer database; or

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

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

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

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

32 (3) A person may not intentionally, willfully, and without  
33 authorization:

34 (i) possess, identify, or attempt to identify a valid access code;  
35 or

1 (ii) publicize or distribute a valid access code to an unauthorized  
2 person.

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

6 (I) THE STATE GOVERNMENT; OR

7 (II) A SERVICE PROVIDED IN THE STATE BY A PUBLIC  
8 SERVICE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY  
9 COMPANIES ARTICLE.

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

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

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

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

20 (3) A PERSON WHO VIOLATES SUBSECTION (C)(4) OF THIS  
21 SECTION:

22 (I) IF THE AGGREGATE AMOUNT OF THE LOSS IS \$50,000  
23 OR MORE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO  
24 IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000  
25 OR BOTH; OR

26 (II) IF THE AGGREGATE AMOUNT OF THE LOSS IS LESS THAN  
27 \$50,000, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO  
28 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$25,000  
29 OR BOTH.

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

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

1                   (1)    the defendant performed the act; or

2                   (2)    the accessed computer is located.

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