

2002 SESSION

HOUSE SUBSTITUTE

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HOUSE BILL NO. 304

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Science and Technology
on January 28, 2002)

(Patron Prior to Substitute— Delegate McDonnell)

A BILL to amend and reenact § 18.2-152.4 of the Code of Virginia, relating to computer trespass; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-152.4 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-152.4. Computer trespass; penalty.

A. It shall be unlawful for any person to use a computer or computer network without authority and with the intent to:

1. Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network;

2. Cause a computer to malfunction, regardless of how long the malfunction persists;

3. Alter or erase any computer data, computer programs, or computer software;

4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

5. Cause physical injury to the property of another;

6. Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network; or

7. Falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

B. It shall be unlawful for any person knowingly to sell, give or otherwise distribute or possess with the intent to sell, give or distribute software which (i) is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information; (ii) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or (iii) is marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Any person who violates this section shall be guilty of computer trespass, which offense shall be punishable as a Class 3 misdemeanor. If there is damage to the property of another valued at \$2,500 or more caused by such person's reckless disregard for the consequences of his act in violation of this section, the offense shall be punished as a Class 1 misdemeanor. If there is damage to the property of another valued at \$2,500 or more caused by such person's malicious act in violation of this section, the offense shall be punishable as a Class 6 felony.

D. Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, a Virginia-based electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this article. *Nothing in this section shall be construed to prohibit the monitoring of computer usage of, the copying of data of, or the denial of computer or Internet access to a minor by a parent or legal guardian of the minor.*

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