

By: Zaffirini

S.B. No. 326

A BILL TO BE ENTITLED

AN ACT

relating to using the Internet to obtain identifying information of another person for a fraudulent purpose; providing penalties.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 48 to read as follows:

CHAPTER 48. INTERNET FRAUD

Sec. 48.001. DEFINITIONS. In this chapter:

(1) "Electronic mail" means a message, file, or other information that is transmitted through a local, regional, or global computer network, regardless of whether the message, file, or other information is viewed, stored for retrieval at a later time, printed, or filtered by a computer program that is designed or intended to filter or screen those items.

(2) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(3) "Identifying information" has the meaning assigned by Section 32.51, Penal Code.

(4) "Internet domain name" refers to a globally unique, hierarchical reference to an Internet host or service, assigned through a centralized Internet naming authority and composed of a series of character strings separated by periods with the right-most string specifying the top of the hierarchy.

1           (5) "Internet information location tool" means a  
2 service that refers or links a person using the service to an online  
3 site on the World Wide Web. The term includes a directory, index,  
4 reference, pointer, and hypertext link.

5           Sec. 48.002. CREATION OF INTERNET WEBSITE OR DOMAIN NAME  
6 FOR FRAUDULENT PURPOSES. A person may not, with the intent to  
7 engage in conduct involving the fraudulent use or possession of  
8 another person's identifying information:

9           (1) create an Internet website or domain name that is  
10 represented as a legitimate online business without the express  
11 authority of the registered owner of the business; and

12           (2) use that website or domain name to induce,  
13 request, or solicit another person to provide identifying  
14 information for a purpose that the other person believes is  
15 legitimate.

16           Sec. 48.003. ELECTRONIC MAIL FRAUD. A person may not, with  
17 the intent to engage in conduct involving the fraudulent use or  
18 possession of identifying information, send or cause to be sent to  
19 an electronic mail address held by a resident of this state an  
20 electronic mail message that:

21           (1) is falsely represented as being sent by a  
22 legitimate online business;

23           (2) includes an Internet information location tool  
24 that refers or links the recipient of the message to an online site  
25 on the World Wide Web that is represented as being associated with  
26 the legitimate online business; and

27           (3) directly or indirectly induces, requests, or

1 solicits the recipient of the electronic mail message to provide  
2 identifying information for a purpose that the recipient believes  
3 is legitimate.

4 Sec. 48.004. CIVIL PENALTY. (a) A person who violates  
5 Section 48.002 is liable to the state for a civil penalty in an  
6 amount not to exceed \$25,000 for each violation.

7 (b) A person who violates Section 48.003 is liable to the  
8 state for a civil penalty in an amount not to exceed \$500 for each  
9 violation. For purposes of imposing the penalty, each occurrence in  
10 which a person who is a resident of this state receives an  
11 electronic mail message that violates this section is a separate  
12 violation.

13 (c) The attorney general or the prosecuting attorney in the  
14 county in which the violation occurs may bring suit to recover a  
15 civil penalty imposed under this section.

16 Sec. 48.005. CRIMINAL PENALTY. (a) A person commits an  
17 offense if the person violates Section 48.002 or 48.003.

18 (b) An offense under this section is a felony of the third  
19 degree.

20 SECTION 2. Chapter 48, Business & Commerce Code, as added by  
21 this Act, applies only to an electronic mail message that is sent on  
22 or after September 1, 2005.

23 SECTION 3. This Act takes effect September 1, 2005.