

## **BILL ANALYSIS**

Senate Research Center  
80R3733 CLG-D

S.B. 1009  
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Business & Commerce  
4/12/2007  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, botnets are not prohibited from being used. A bot is defined as computer software that operates as an agent for a user or another computer program or simulates a human activity. Botnets are a collection of compromised computers used to perpetuate cybercrime. Botnets are increasingly being used by cybercriminals to send messages or software without a computer user's knowledge in order to make a computer resource unavailable to its intended users, to commit click fraud, or to steal personally identifiable information. Electronic commerce is quickly becoming the next frontier of international business and is being threatened by the use of botnets. A report by Symantec, a computer security company, reported that an average of 57,000 bots (individually compromised machines) was observed per day during the first six months of 2006. During this period, Symantec discovered 4.7 million distinct computers being actively used in botnets.

As proposed, S.B. 1009 prohibits a person who is not the owner or operator of the computer from knowingly causing a bot to be copied to a computer in this state and, without the owner's or operator's knowledge, using the bot for certain purposes.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 48.002, Business & Commerce Code, as added by Chapter 298, Acts of the 79th Legislature, Regular Session, 2005, by adding Subdivisions (1-a) and (1-b), to define "bot" and "botnet."

SECTION 2. Amends Section 48.054, Business & Commerce Code, as added by Chapter 298, Acts of the 79th Legislature, Regular Session, 2005, to include that a person knowingly violates Section 48.055(b) if the person acts with actual knowledge of the facts that constitute the violation or consciously avoids information that would establish actual knowledge of those facts.

SECTION 3. Amends Section 48.055, Business & Commerce Code, as added by Chapter 298, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Sec. 48.055. OTHER PROHIBITED CONDUCT. (a) Creates this subsection from existing text.

(b) Prohibits a person who is not the owner or operator of the computer from knowingly causing a bot to be copied to a computer in this state and, without the owner's or operator's knowledge, using the bot for certain purposes.

SECTION 4. Effective date: September 1, 2007.