

BILL ANALYSIS

Senate Research Center
80R13726 CLG-F

C.S.S.B. 1009
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Business & Commerce
4/18/2007
Committee Report (Substituted)

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 zombies. A zombie is defined as a computer that, without the knowledge and consent of the computer's owner or operator, has been compromised to give access or control to a program or person other than the computer's owner or operator. 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.

C.S.S.B. 1009 prohibits a person who is not the owner or operator of the computer from knowingly causing a computer to become a zombie or part of a botnet. This bill also prohibits a person from knowingly creating, having created, using, or offering to use a zombie or botnet for certain purposes and prohibits a person from purchasing, renting, or otherwise gaining control of a zombie or botnet created by another person or selling, leasing, offering for sale or lease, or otherwise providing to another person access to or use of a zombie or botnet.

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 (10), to define "botnet" and "zombie."

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 48.057 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 Subchapter B, Chapter 48, Business & Commerce Code, as added by Chapter 298, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 48.057, as follows:

Sec. 48.057. UNAUTHORIZED CREATION OR USE OF ZOMBIES OR BOTNETS.

(a) Prohibits a person who is not the owner or operator of a computer from knowingly causing or offering to cause the computer to become a zombie or part of a botnet.

(b) Prohibits a person from knowingly creating, having created, using, or offering to use a zombie or botnet for certain purposes.

(c) Prohibits a person from purchasing, renting, or otherwise gaining control of a zombie or botnet created by another person or selling, leasing, offering for sale or lease, or otherwise providing to another person access to or use of a zombie or botnet.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.