

1-1 By: Zaffirini S.B. No. 1009  
1-2 (In the Senate - Filed February 28, 2007; March 14, 2007,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 April 20, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 20, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1009 By: Janek  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the use of a computer for an unauthorized purpose.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Section 48.002, Business & Commerce Code, as  
1-13 added by Chapter 298, Acts of the 79th Legislature, Regular  
1-14 Session, 2005, is amended by adding Subdivisions (1-a) and (10) to  
1-15 read as follows:

1-16 (1-a) "Botnet" means a collection of zombies.  
1-17 (10) "Zombie" means a computer that, without the  
1-18 knowledge and consent of the computer's owner or operator, has been  
1-19 compromised to give access or control to a program or person other  
1-20 than the computer's owner or operator.

1-21 SECTION 2. Section 48.054, Business & Commerce Code, as  
1-22 added by Chapter 298, Acts of the 79th Legislature, Regular  
1-23 Session, 2005, is amended to read as follows:

1-24 Sec. 48.054. KNOWING VIOLATION. A person knowingly  
1-25 violates Section 48.051, 48.052, ~~[or]~~ 48.053, or 48.057 if the  
1-26 person:

1-27 (1) acts with actual knowledge of the facts that  
1-28 constitute the violation; or  
1-29 (2) consciously avoids information that would  
1-30 establish actual knowledge of those facts.

1-31 SECTION 3. Subchapter B, Chapter 48, Business & Commerce  
1-32 Code, as added by Chapter 298, Acts of the 79th Legislature, Regular  
1-33 Session, 2005, is amended by adding Section 48.057 to read as  
1-34 follows:

1-35 Sec. 48.057. UNAUTHORIZED CREATION OR USE OF ZOMBIES OR  
1-36 BOTNETS. (a) If a person is not the owner or operator of the  
1-37 computer, the person may not knowingly cause or offer to cause the  
1-38 computer to become a zombie or part of a botnet.

1-39 (b) A person may not knowingly create, have created, use, or  
1-40 offer to use a zombie or botnet:

1-41 (1) to send an unsolicited commercial electronic mail  
1-42 message, as defined by Section 46.001;

1-43 (2) for an attack on a computer system or network that  
1-44 causes a loss of service to users;

1-45 (3) to artificially add increments to a click counter  
1-46 by automatically clicking on an advertisement on an Internet  
1-47 website;

1-48 (4) to forward computer software designed to damage or  
1-49 disrupt another computer or system;

1-50 (5) to collect personally identifiable information;

1-51 (6) to manipulate online polls or games; or

1-52 (7) for another purpose not authorized by the owner or  
1-53 operator of the computer.

1-54 (c) A person may not:

1-55 (1) purchase, rent, or otherwise gain control of a  
1-56 zombie or botnet created by another person; or

1-57 (2) sell, lease, offer for sale or lease, or otherwise  
1-58 provide to another person access to or use of a zombie or botnet.

1-59 SECTION 4. The changes in law made by this Act apply only to  
1-60 conduct that occurs on or after the effective date of this Act.  
1-61 Conduct that occurs before the effective date of this Act is  
1-62 governed by the law in effect at the time the conduct occurred, and  
1-63 that law is continued in effect for that purpose.

2-1 SECTION 5. This Act takes effect September 1, 2007.

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