

108TH CONGRESS  
2D SESSION

# H. R. 4661

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IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2004

Received

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## AN ACT

To amend title 18, United States Code, to discourage  
spyware, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Internet Spyware (I-  
3 SPY) Prevention Act of 2004”.

4 **SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES**  
5 **RELATING TO COMPUTERS.**

6       (a) IN GENERAL.—Chapter 47 of title 18, United  
7 States Code, is amended by inserting after section 1030  
8 the following:

9 **“§ 1030A. Illicit indirect use of protected computers**

10       “(a) Whoever intentionally accesses a protected com-  
11 puter without authorization, or exceeds authorized access  
12 to a protected computer, by causing a computer program  
13 or code to be copied onto the protected computer, and in-  
14 tentiously uses that program or code in furtherance of  
15 another Federal criminal offense shall be fined under this  
16 title or imprisoned not more than 5 years, or both.

17       “(b) Whoever intentionally accesses a protected com-  
18 puter without authorization, or exceeds authorized access  
19 to a protected computer, by causing a computer program  
20 or code to be copied onto the protected computer, and by  
21 means of that program or code—

22               “(1) intentionally obtains, or transmits to an-  
23 other, personal information with the intent to de-  
24 fraud or injure a person or cause damage to a pro-  
25 tected computer; or

1           “(2) intentionally impairs the security protec-  
2           tion of the protected computer;  
3 shall be fined under this title or imprisoned not more than  
4 2 years, or both.

5           “(c) No person may bring a civil action under the  
6 law of any State if such action is premised in whole or  
7 in part upon the defendant’s violating this section. For  
8 the purposes of this subsection, the term ‘State’ includes  
9 the District of Columbia, Puerto Rico, and any other terri-  
10 tory or possession of the United States.

11          “(d) As used in this section—

12           “(1) the terms ‘protected computer’ and ‘ex-  
13 ceeds authorized access’ have, respectively, the  
14 meanings given those terms in section 1030; and

15           “(2) the term ‘personal information’ means—

16           “(A) a first and last name;

17           “(B) a home or other physical address, in-  
18 cluding street name;

19           “(C) an electronic mail address;

20           “(D) a telephone number;

21           “(E) a Social Security number, tax identi-  
22 fication number, drivers license number, pass-  
23 port number, or any other government-issued  
24 identification number; or

1           “(F) a credit card or bank account number  
 2           or any password or access code associated with  
 3           a credit card or bank account.

4           “(e) This section does not prohibit any lawfully au-  
 5           thorized investigative, protective, or intelligence activity of  
 6           a law enforcement agency of the United States, a State,  
 7           or a political subdivision of a State, or of an intelligence  
 8           agency of the United States.”.

9           (b) CONFORMING AMENDMENT.—The table of sec-  
 10          tions at the beginning of chapter 47 of title 18, United  
 11          States Code, is amended by inserting after the item relat-  
 12          ing to section 1030 the following new item:

          “1030A. Illicit indirect use of protected computers.”.

13       **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

14           In addition to any other sums otherwise authorized  
 15          to be appropriated for this purpose, there are authorized  
 16          to be appropriated for each of fiscal years 2005 through  
 17          2008, the sum of \$10,000,000 to the Attorney General  
 18          for prosecutions needed to discourage the use of spyware  
 19          and the practice commonly called phishing.

20       **SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING**  
 21                       **THE       ENFORCEMENT       OF       CERTAIN**  
 22                       **CYBERCRIMES.**

23           (a) FINDINGS.—Congress makes the following find-  
 24          ings:

1           (1) Software and electronic communications are  
2           increasingly being used by criminals to invade indi-  
3           viduals' and businesses' computers without author-  
4           ization.

5           (2) Two particularly egregious types of such  
6           schemes are the use of spyware and phishing scams.

7           (3) These schemes are often used to obtain per-  
8           sonal information, such as bank account and credit  
9           card numbers, which can then be used as a means  
10          to commit other types of theft.

11          (4) In addition to the devastating damage that  
12          these heinous activities can inflict on individuals and  
13          businesses, they also undermine the confidence that  
14          citizens have in using the Internet.

15          (b) SENSE OF CONGRESS.—Because of the serious  
16          nature of these offenses, and the Internet's unique impor-  
17          tance in the daily lives of citizens and in interstate com-  
18          merce, it is the sense of Congress that the Department  
19          of Justice should use the amendments made by this Act,  
20          and all other available tools, vigorously to prosecute those

- 1 who use spyware to commit crimes and those that conduct
- 2 phishing scams.

Passed the House of Representatives October 7,  
2004.

Attest:

JEFF TRANDAHL,  
*Clerk.*