

109TH CONGRESS
1ST SESSION

H. R. 744

IN THE SENATE OF THE UNITED STATES

MAY 24, 2005

Received; read twice and referred to the Committee on the Judiciary

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 2005”.

4 **SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVI-
5 TIES RELATING TO COMPUTERS.**

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

8 **“§ 1030A. Illicit indirect use of protected computers**

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

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

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

1 “(2) intentionally impairs the security protec-
2 tion of the protected computer with the intent to de-
3 fraud or injure a person or damage a protected com-
4 puter;
5 shall be fined under this title or imprisoned not more than
6 2 years, or both.

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

13 “(d) As used in this section—

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

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

18 “(A) a first and last name;

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

21 “(C) an electronic mail address;

22 “(D) a telephone number;

23 “(E) a Social Security number, tax identi-
24 fication number, drivers license number, pass-

1 port number, or any other government-issued
2 identification number; or

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

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

11 (b) CONFORMING AMENDMENT.—The table of sec-
12 tions at the beginning of chapter 47 of title 18, is amended
13 by inserting after the item relating to section 1030 the
14 following new item:

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

15 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

16 In addition to any other sums otherwise authorized
17 to be appropriated for this purpose, there are authorized
18 to be appropriated for each of fiscal years 2006 through
19 2009, the sum of \$10,000,000 to the Attorney General
20 for prosecutions needed to discourage the use of spyware
21 and the practices commonly called phishing and pharming.

1 **SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING**
2 **THE ENFORCEMENT OF CERTAIN**
3 **CYBERCRIMES.**

4 (a) FINDINGS.—Congress makes the following find-
5 ings:

6 (1) Software and electronic communications are
7 increasingly being used by criminals to invade indi-
8 viduals' and businesses' computers without author-
9 ization.

10 (2) Two particularly egregious types of such
11 schemes are the use of spyware and phishing seams.

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

16 (4) In addition to the devastating damage that
17 these heinous activities can inflict on individuals and
18 businesses, they also undermine the confidence that
19 citizens have in using the Internet.

20 (5) The continued development of innovative
21 technologies in response to consumer demand is cru-
22 cial in the fight against spyware.

23 (b) SENSE OF CONGRESS.—Because of the serious
24 nature of these offenses, and the Internet's unique impor-
25 tance in the daily lives of citizens and in interstate com-
26 merce, it is the sense of Congress that the Department

1 of Justice should use the amendments made by this Act,
2 and all other available tools, vigorously to prosecute those
3 who use spyware to commit crimes and those that conduct
4 phishing and pharming scams.

Passed the House of Representatives May 23, 2005.

Attest:

JEFF TRANDAHL,

Clerk.