



Senate

General Assembly

File No. 161

February Session, 2006

Substitute Senate Bill No. 566

Senate, March 28, 2006

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTRONIC MAIL MESSAGE PHISHING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) For purposes of this
2 section:

3 (1) "Electronic mail message" means a message sent to a unique
4 destination that consists of a unique user name or mailbox and a
5 reference to an Internet domain, whether or not displayed, to which
6 such message can be sent or delivered.

7 (2) "Identifying information" means specific details that can be used
8 to access a person's financial accounts or to obtain goods or services,
9 including, but not limited to, such person's Social Security number,
10 driver's license number, bank account number, credit or debit card
11 number, personal identification number, automated or electronic
12 signature, unique biometric data or account password.

13 (b) No person shall, by means of an Internet web page, electronic

14 mail message or otherwise using the Internet, solicit, request or take
 15 any action to induce another person to provide identifying information
 16 by representing that the person, either directly or by implication, is an
 17 on-line Internet business, without the authority or approval of such on-
 18 line Internet business.

19 (c) The Attorney General or any person aggrieved by a violation of
 20 subsection (b) of this section may file a civil action in superior court to
 21 enforce the provisions of this section and to enjoin further violations of
 22 this section. The Attorney General or such aggrieved person may
 23 recover actual damages or twenty-five thousand dollars, whichever is
 24 greater, for each violation of subsection (b) of this section.

25 (d) In a civil action under subsection (c) of this section, the court
 26 may increase the damage award to an amount equal to not more than
 27 three times the award provided in said subsection (c) if the court
 28 determines that the defendant has engaged in a pattern and practice of
 29 violating subsection (b) of this section.

30 (e) An interactive computer service provider shall not be held liable
 31 or found in violation of this section for identifying, removing or
 32 disabling access to an Internet web page or other on-line location that
 33 such provider believes in good faith is being used to engage in a
 34 violation of this section.

35 (f) A violation of subsection (b) of this section shall be a class D
 36 felony. Multiple violations resulting from a single action or act shall
 37 constitute one violation for the purposes of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	GF - Revenue Gain	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential
Attorney General; Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes it a crime, punishable by a fine of up to \$5,000 and/or five years' imprisonment, for any person to use the Internet or electronic mail messaging to induce another person to provide identifying information by representing that the person is an on-line Internet business, without the authority or approval of such on-line Internet business (electronic mail message phishing). To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits). There is a potential revenue gain associated with criminal fines.

The bill authorizes the Attorney General to bring a civil action to enforce the provisions of the bill. As this provision is permissive, it is anticipated that any such enforcement measures could be accommodated within budgeted resources.

The bill grants any person aggrieved by a violation of the bill permission to bring a civil action in superior court to recover actual damages or \$25,000, whichever is greater, for each violation, and

provides for the awarding of punitive damages. The number of civil cases resulting from this provision is anticipated to be small relative to the overall caseload of the Judicial Department and therefore could be accommodated within budgeted resources.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Judicial Dept.	GF - Revenue Gain	Potential	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential	Potential
Attorney General; Judicial Dept.	GF - None	None	None	None

Note: GF=General Fund

Municipal Impact: None

OLR Bill Analysis**sSB 566*****AN ACT CONCERNING ELECTRONIC MAIL MESSAGE PHISHING.*****SUMMARY:**

This bill prohibits using the Internet or an e-mail message to solicit or induce another to provide identifying information by pretending to be an on-line Internet business without the business's authorization.

The bill authorizes the attorney general or anyone aggrieved by a violation to sue to enforce it and restrain further violations. The court may award actual damages or \$25,000, whichever is greater, for each violation. It may triple the damage award if it determines that the defendant has engaged in a pattern and practice of violations.

Under the bill, an Internet service provider is not liable for identifying, removing, or disabling access to a web page or other on-line location that it believes in good faith is being used to violate the prohibition.

A violation is also a class D felony, punishable by one to five years imprisonment, a fine of up to \$5,000, or both. Multiple violations committed in the course of a single act constitute a single violation for purposes of the criminal penalty.

EFFECTIVE DATE: October 1, 2006

DEFINITIONS***E-Mail Messages***

The bill defines "e-mail message" as a message sent to a unique destination consisting of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which

the message can be sent.

Identifying Information

The bill defines “identifying information” as specific details that can be used to access a person’s financial accounts or to obtain goods or services. It can include a Social Security number, driver’s license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, or account password.

BACKGROUND

Related Bill

HB 5596 prohibits the same conduct. It permits a court to award the greater of actual damages or \$500,000 for each violation and has similar criminal penalty. It does not provide immunity to an Internet service provider when it identifies, removes, or disables access to a web page or on-line location that it believes in good faith is being used to violate the prohibition.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/14/2006)