

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE RECEIVED BY: _____
S. B. No. 1901

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Philippine society is increasingly dependent on the internet for communication, entertainment, commerce, and banking. For the internet to reach its full potential, it must continue to be a trustworthy medium. Internet users should be able to trust the origin of internet communications and the destination of internet hyperlinks.

Internet users around the world are increasingly subjected to scams based on misleading or false communications that trick the user into sending money, or into revealing information that result in financial loss.

One class of such scams is called *phising*. This uses false e-mail return addresses, stolen graphics, stylistic imitations, disguised hyperlinks, and other artifices to trick users into revealing personal information. After obtaining this information, the *phiser* then uses the information to create unlawful identification documents and/or to unlawfully obtain money or property.

This bill seeks to criminalize internet scams involving fraudulently obtaining personal information, commonly known as *phising*.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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AN ACT
TO CRIMINALIZE INTERNET SCAMS INVOLVING FRAUDULENTLY
OBTAINING PERSONAL INFORMATION

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the “Anti-phising Act of 2005.”

SECTION 2. *Definition of Terms.* – As used in this Act, the term:

(1) “Phising” – means an internet scam based on misleading or false communications that trick the user into sending money, or trick the user into revealing enough information to enable various forms of identity theft that result in financial loss.

(2) “Phiser” – means any person, firm, association, corporation or partnership or other organization who engaged or commits the act of phising.

(3) “Internet” - means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol (TCP/IP) or any successor protocol to transmit information.

(4) “Domain name” - means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the internet.

(5) “Electronic mail message” - means a message sent to a unique electronic mail address.

(6) "Initiate" - means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than one person may be considered to have initiated a message.

(7) "Procure" - means intentionally to pay or provide consideration to, or induce, another person to create a website or domain name.

(8) "Recipient" - means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has one or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(9) "Internet information location tool" — means a service that refers or links users to an online location on the worldwide web. Such term includes directories, indices, references, pointers, and hypertext links.

SECTION 3. *Criminal Offense and Penalty.* —

(1) Internet Fraud. —

(a) WEBSITE. — Whoever knowingly, with the intent to carry on any activity which would be a crime of fraud or identity theft—

(i) creates or procures the creation of a website or domain name that represents itself as a legitimate online business, without the authority or approval of the registered owner of the actual website or domain name of the legitimate online business; and

(ii) uses that website or domain name to induce, request, ask, or solicit any person to transmit, submit, or provide any means of identification to another;

shall be imprisoned for a minimum of six (6) months and one (1) day to a maximum of six (6) years and a fine of not more than six thousand pesos (P6,000) but not less than two hundred pesos (P200).

(b) MESSENGER. — Whoever knowingly, with the intent to carry on any activity which would be a crime of fraud or identity theft—

(i) falsely represents itself as being sent by a legitimate online business;

(ii) includes an Internet information location tool that refers or links users to an online location on the world wide web that falsely purports to belong to or be associated with such legitimate online business; and

(iii) induces, requests, asks, or solicits a recipient of the electronic mail message directly or indirectly to provide, submit, or relate any means of identification to another;

shall be imprisoned for a minimum of six (6) months and one (1) day to a maximum of six (6) years and a fine of not more than six thousand pesos (P6,000) but not less than two hundred pesos (P200).

SECTION 4. *Liability of Officials of Juridical Persons.* — If the phiser is a partnership, firm, corporation or association, the president or the manager or any officer thereof who knows or should have known the commission of the offense shall be liable.

SECTION 5. *Separability clause.* — If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 6. *Repealing clause.* — Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation or part thereof, contrary to, or inconsistent with, the provision of this Act is hereby repealed, modified, or amended accordingly.

SECTION 7. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

/jpa