


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

7 JUL 26 11 31 AM 2010

SENATE

RECEIVED BY: 

S.B. No. 1377

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to provide a comprehensive policy framework that will ensure protections against computer-related fraudulent activities.

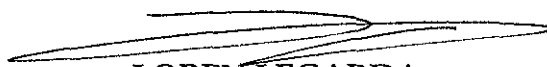
The rapid developments in the information and telecommunications technology have revolutionized our daily lifestyle. Computers have evolved into a versatile instrument in modern society. According to a case study conducted by the International Telecommunication Union (ITU), the lead agency of the United Nations in information and communication technologies (ICT), personal computer (PC) penetration rate in the Philippines is estimated at 3.5 percent per 100 population in 2003, which increased to 4.5 per 100 population in the succeeding year. The country ranked fifth in the ASEAN region behind Singapore, Malaysia, Brunei and Thailand.

Networks of computers have become essential in maintaining and operating vital infrastructures. The use of computers in accessing the internet enabled linkages among individuals and organizations in doing business. The ITU estimates that in 2004, there were 4.4 million internet users representing 5.32 users per 100 population in the Philippines. The 2002 Survey of Information and Communication Technology of Philippine Business and Industry by the National Statistics Office (NSO) reveals that as of 2001, the portion of ICT users, aside from ICT industries, are highest in wholesale and retail trade (96.6 %), ICT education (93.7 %) and ICT manufacturing (88.6 %). With computers as portals, transaction and exchange of goods such as online shopping, and services such as online banking, have been facilitated more efficiently.

With the increasing reliance on ICTs for transacting business, new forms of criminal activities, such as unauthorized acquisition of vital and/or confidential information by third parties seeking to profit or benefit from the utilization of such information, have emerged. To a certain extent, laws such as the e-commerce law,

This bill addresses the need to provide a policy framework clearly defining the coverage of computer-related fraudulent activities and imposing penalties for the same to protect computer owners, cyber users, and the consuming public in general.

In view of the foregoing, the urgent passage of his bill is sought.




LOREN LEGARDA

Senator

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

7 JUL 26 P3:41

SENATE

RECEIVED BY: 

S.B. No. 1377

Introduced by Senator Loren Legarda

AN ACT
PROVIDING PROTECTION AGAINST COMPUTER FRAUD AND ABUSES AND
OTHER CYBER-RELATED FRAUDULENT ACTIVITIES, PROVIDING PENALTIES
THEREFOR AND OTHER PURPOSE

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

SECTION 1. Title - This Act shall be known and cited as the "**Anti-Computer Fraud and Abuses Act of 2007**".

SEC. 2. Policy Statement - It is hereby declared a policy of the State to create the appropriate policy and institutional environment to rationalize, accelerate the use, application and exploitation of information technology as a tool and as a development strategy for modernization and economic development.

In furtherance of the said policy, the government shall exert efforts to provide protection against all forms of computer fraud and abuses and cyber-related fraudulent activities committed against vital government and private financial institutions.

SEC. 3. Punishable Acts -The following acts/offences are punishable under this Act.

3.1. Computer Fraud - The input/alteration, erasure or suppression of computer data or computer programs, or other interference in the course of data processing, that influences the result of data processing thereby causing economic or possessory loss of another person with the intent of procuring an unlawful economic gain for himself or for another person;

3.2. Computer Forgery - The input, alternation, erasure or suppression of computer data or computer programs, or other interference in the course of data processing in a manner or under such conditions, as prescribed national law, that word constitute the offense of forgery if it had been committed with respect to traditional object of an offense;

3.3. Damage to Computer data or Computer Programs - The erasure, alteration damaging, deterioration or suppression of computer programs without right;

3.4. Computer Sabotage - The input, alteration or suppression of computer data or computer programs, or interference with computer system, with the intent to hinder the functioning of a computer or of a telecommunication system;

3.5. Unauthorized Access – The access without right to a computer system or network by infringing security measures;

3.6. Unauthorized Interception – The interception, made without right and by technical means, of communications to, from and within a computer system or network.

3.7. Whoever ---

- a. knowingly accesses a computer without authorization or exceeds authorized access, and by means of such conduct obtains information that has been determined by the Government pursuant to regulations requiring protection against unauthorized disclosure for reasons of national security or foreign relation, or may restricted data, with the intent or reason to believe that such information so obtained is to be used to the injury to the Philippines, or to the advantage of any foreign nation;
- b. international access a computer without authorization or exceed authorized access, and thereby obtains information contained in a financial record of a financial institution, or of card issuer or contained in a file of a consumer reporting agency on a consumer;
- c. international without authorization to access any computer of a department or agency of the government of the Philippines or any public or private financial institution operating under Philippine Laws, accesses such a computer of the department or agency that is exclusively for the use Government of the Philippines, or in the case a computer not exclusively for such use , it is used or for the Government of the Philippines or, in the case of a computer not exclusively for such conduct affect thee use of the Government's operation such a computer;
- d. knowingly with intent to defraud, accesses a vital government or private financial institution or agencies as indicated in the IRP without authorization, or exceeds authorized access, and by means of such conduct further the intended fraud and obtain anything of value, unless the object of the fraud and the thing obtained consist only of the use computer
- e. internationally accesses a national government computer without authorization and by means of one or more instances of such conduct alters, damages, or destroys information in any computer, or prevents authorized use of any such computer or information, and thereby ---
 1. causes loss to one or destroys property of value;
 2. modifies or impairs, or potentially modifies or impairs the medical treatment, or medical care of one or more individuals;or
- f. knowingly and with intent to defraud traffics in any password or similar information through which a computer may be accessed without authorization, if such trafficking affects inter-country or

foreign trade or such computer is used by the government of the Philippines in its transactions.

For purpose of this above-mentioned enumeration of offenses, the following terms shall be defined as follows:

- a. computer shall refer to an electronic, magnetic, optical, electromechanical, or other high speed data processing devise performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly any data to or operating in conjunction with such devise, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;
- b. National government computer shall refer to a computer -
 1. exclusively for the use of a government and private financial institutions operating under Philippines laws, or, in the case of a computer not exclusively for such use , by a financial institution or nay of the agencies of the government and the conduct constituting the offense the use of the financial institution's operation or the Government operation of computer; or
 2. which is one of the or more computers used in committing the offense, not all which are located in the same palace / areas.

SEC. 4. Penal provision - Any person who violates any provision of this Act shall be punishable with imprisonment for not less than eight years nor more than twenty (20) years and a fine of one hundred thousand pesos (Php100,000.00) or equal in amount to the damage involved in the violation, whichever is applicable: Provided, That if the person violating any provision of this Act is a juridical person, the penalty herein provided shall be imposed on its president or secretary and/or member of the board of directors or any of its officers and employees who may have directly participated in the violation.

Any government official or employee who directly commits the unlawful acts defined in this Act or guilty of gross negligence of duty or connives with or permits the commission of any of the said unlawful or prohibited acts shall, in addition to penalty prescribed in the preceding paragraph, be dismissed from voting or being voted for in any election and from appointment to any public office.

SEC. 5. Authority of the National Security Council - The National Security Council (NSC) shall have, in addition to other government agencies concerned, the authority to investigate offense under this section, particular if the violation committed affects the national security of the country.

SEC. 6. Miscellaneous - Without prejudice to the provisions of this Act, nothing herein provided shall divest or deprive courts of justice, civil or military, of their jurisdiction, in the proper cases, over civil or criminal suits or actions arising from acts or omissions under this law.

SEC. 7. Implementing Rules and Regulations (IRR) - The National Computer Center, in cooperation with the Departments of Justice, Finance, Science and Technology and other concerned agencies, shall formulate the necessary rules and regulations for the effective implementation of this Act.

SEC. 8. Separability Clause - If for any provision of this Act is held invalid, the other provisions of this Act shall remain in full force and effect.

SEC. 9. Repealing Clause - All laws, decrees, orders, rules and regulation, or portions thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 10. Effectivity - This Act shall take effect fifteen (15) days after complete publication in the Official Gazette or in at least two (2) newspaper of general publication, whichever comes earlier.

Approved,