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SENATE
S. No. **1475**

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Grayware (or greyware) is a general classification for applications that behave in a manner that is annoying or undesirable. Grayware encompasses spyware, adware, dialers, joke programs, remote access tools, and any other unwelcome files and programs apart from viruses that can harm the performance of computers on your network. The term has been in use since at least as early as September 2004.

Grayware refers to applications or files that are not classified as viruses or trojan horse programs, but can still negatively affect the performance of the computers on your network and introduce significant security risks to your organization. Often grayware performs a variety of undesired and threatening actions such as irritating users with pop-up windows, logging user key strokes, and exposing computer vulnerabilities to attack. This bill aims to address the growing problem of grayware among computer users in the Philippines.

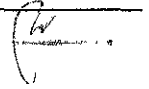
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MIRIAM DEFENSOR SANTIAGO

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1 AN ACT
2 PROTECTING CONSUMERS FROM COMPUTER GRAYWARE

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

3 SECTION 1. *Short Title.* - This Act shall be known as the "Consumer Protection against
4 Computer Grayware Act."

5 SECTION 2. *Definition of terms.* -As used in this Act, the term-

6 (A) "Advertisement" is any communication, the primary purpose of which is the
7 commercial promotion of a commercial product or service, including content on an Internet web
8 site operated for a commercial purpose;

9 (B) "Authorized user," with respect to a computer, is a person who owns or leases a
10 computer or is authorized by the owner or lessee to use the computer. Authorized user shall not
11 include a person or entity that has obtained authorization to use the computer solely through the
12 use of an end-user license agreement;

13 (C) "Computer software" is a sequence of instructions written in any programming
14 language that is executed on a computer;

15 (D) "Computer virus" or malware is a computer program or other set of instructions that
16 is designed to degrade the performance of or disable a computer or computer network and is
17 designed to have the ability to replicate itself on other computers or computer networks without
18 the authorization of the owners of those computers or computer networks;

19 (E) "Consumer" is an individual who uses a computer for whatever purpose;

1 (F) "Grayware" refers to applications or files that are not classified as viruses or trojan
2 horse programs, but can still negatively affect the performance of the computers on your network
3 and introduce significant security risks, it includes spyware and adware;

4 (1) "Spyware" refers to software that installs components on a computer for the
5 purpose of recording Web surfing habits (primarily for marketing purposes). Spyware sends
6 this information to its author or to other interested parties when the computer is online;

7 (2) "Adware" is software that displays advertising banners on Web browsers such
8 as Internet Explorer and Mozilla. While not categorized as malware, many users consider
9 adware invasive. Adware programs often create unwanted effects on a system, such as
10 annoying popup ads and the general degradation in either network connection or system
11 performance. Adware programs are typically installed as separate programs that are bundled with
12 certain free software.

13 (G) "Execute," when used with respect to computer software, means the performance of
14 the functions or the carrying out of the instructions of the computer software;

15 (H) "Intentionally deceptive" is any of the following:

16 (1) By means of an intentionally and materially false or fraudulent statement;

17 (2) By means of a statement or description that intentionally omits or
18 misrepresents material information in order to deceive the consumer;

19 (3) By means of an intentional and material failure to provide any notice to an
20 authorized user regarding the download or installation of software in order to deceive the
21 consumer;

22 (I) "Internet" is the global information system that is linked together by a globally unique
23 address space based on the Internet protocol, or its subsequent extensions, and that is able to
24 support communications using the Transmission Control Protocol/Internet Protocol suite, or its
25 subsequent extensions, or other Internet protocol-compatible protocols, and that provides, uses,
26 or makes accessible, either publicly or privately, high level services layered on the
27 communications and related infrastructure described in this subdivision:

28 (J) "Person" refers to any individual, partnership, corporation, or any kind of
29 organization, or any combination thereof;

1 (K) "Damage" refers to any significant impairment to the integrity, functionality or
2 availability of data, software, a computer, or a system;

3 (L) "Personally identifiable information" is any of the following:

4 (1) A first name or first initial in combination with last name;

5 (2) Any credit or debit card numbers or other financial account numbers;

6 (3) A password or personal identification number required to access an identified
7 financial account;

8 (4) A Social Security number;

9 (5) Any of the following information in a form that personally identifies an authorized
10 user:

11 (a) Account balance;

12 (b) Overdraft history;

13 (c) Payment history;

14 (d) History of web sites visited;

15 (e) Home address;

16 (f) Work address;

17 (g) Record of a purchase or purchases.

18 SECTION 3. *Prohibited Acts.* - A person or entity that is not an authorized user shall not,
19 with actual knowledge, with conscious avoidance of actual knowledge, or willfully, cause
20 computer software to be copied onto the computer of a consumer and use the software to do any
21 of the following:

22 (A) Modify, through intentionally deceptive means, any of the settings related to the
23 computer's access to, or use of, the Internet;

24 (B) Collect, through intentionally deceptive means, personally identifiable information
25 that meets any of the following criteria:

26 (1) It is collected through the use of a keystroke-logging function that records all
27 keystrokes made by an authorized user who uses the computer and transfers that
28 information from the computer to another person;

1 (2) It includes all or substantially all of the web sites visited by an authorized user,
2 other than web sites of the provider of the software, if the computer software was
3 installed in a manner designed to conceal from all authorized users of the computer the
4 fact that the software is being installed;

5 (3) It is a data element described in paragraph K of Section 2, that is extracted
6 from the consumer's computer hard drive for a purpose wholly unrelated to any of the
7 purposes of the software or service described to an authorized user.

8 (C) Prevent, without the authorization of an authorized user, through intentionally
9 deceptive means, an authorized user's reasonable efforts to block the installation of, or to disable,
10 software, by causing software that the authorized user has properly removed or disabled to
11 automatically reinstall or reactivate on the computer without the authorization of an authorized
12 user;

13 (D) Intentionally misrepresent that software will be uninstalled or disabled by an
14 authorized user's action, with knowledge that the software will not be so uninstalled or disabled;

15 (E) Through intentionally deceptive means, remove, disable, or render inoperative
16 security, antispyware, or antivirus software installed on the computer.

17 (F) Take control of the consumer's computer by doing any of the following:

18 (1) Transmitting or relaying commercial electronic mail or a computer virus from
19 the consumer's computer, where the transmission or relaying is initiated by a person other
20 than the authorized user and without the authorization of an authorized user;

21 (2) Accessing or using the consumer's modem or Internet service for the purpose
22 of causing damage to the consumer's computer or of causing an authorized user to incur
23 financial charges for a service that is not authorized by an authorized user;

24 (3) Using the consumer's computer as part of an activity performed by a group of
25 computers for the purpose of causing damage to another computer, including, but not
26 limited to, launching a denial of service attack;

27 (4) Opening multiple, sequential, stand-alone advertisements in the consumer's
28 Internet browser without the authorization of an authorized user and with knowledge that

1 a reasonable computer user cannot close the advertisements without turning off the
2 computer or closing the consumer's Internet browser;

3 (G) Modify any of the following settings related to the computer's access to, or use of, the
4 Internet:

5 (1) An authorized user's security or other settings that protect information about
6 the authorized user for the purpose of obtaining personally identifiable information of an
7 authorized user;

8 (2) The security settings of the computer for the purpose of causing damage to
9 one or more computers;

10 (H) Prevent, without the authorization of an authorized user, an authorized user's
11 reasonable efforts to block the installation of, or to disable, software, by doing any of the
12 following:

13 (1) Presenting the authorized user with an option to decline installation of
14 software with knowledge that, when the option is selected by the authorized user, the
15 installation nevertheless proceeds;

16 (2) Falsely representing that software has been disabled;

17 (3) Causing the installation of computer software in an intentionally deceptive
18 manner so as to evade an authorized user's attempts to remove the computer software
19 from the computer;

20 (I) Remove, disable, or render inoperative, through intentionally deceptive means,
21 security, antispyware, or antivirus software installed on the computer;

22 (J) Induce an authorized user to install a software component onto the computer by
23 misrepresenting that installing software is necessary for security or privacy reasons or in order to
24 open, view, or play a particular type of content;

25 (K) Deceptively causing the copying and execution on the computer of a computer
26 software component with the intent of causing an authorized user or computer to use the
27 component in a way that violates any other provision of this section;

1 SECTION 4. *Exceptions.* - Nothing in the preceding section shall apply to any
2 monitoring of, or interaction with, an authorized user's Internet or other network connection or
3 service, or a protected computer, by a telecommunications carrier, cable operator, computer
4 hardware or software provider, or provider of information service or interactive computer
5 authorized service for authorized network or computer security purposes, authorized diagnostics,
6 technical support, network management, authorized maintenance or repair, authorized updates of
7 software or system firmware, authorized remote system management, or authorized detection or
8 prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a
9 network, service, or computer software, including scanning for and removing software
10 proscribed under this Act.

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

14 SECTION 6. *Repealing Clause.* - Any law, presidential decree or issuance, executive
15 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
16 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

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

Approved,