

9 MAR 30 P 1:41

SENATE  
S. No. **3143**

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The Constitution, Article 2, Section 24 provides that:

SEC. 24. The State recognizes the vital role of communication and information in nation-building.

As we move forward deeper into the information age we continue to establish better communication infrastructures that allows our computers to exchange information faster than ever. These infrastructures allow computer users to look into information stored in other computers. As such, work becomes more efficient and effective due to real-time and on-demand access to the necessary information to proceed with the assigned task. Peer-to-peer file sharing program is one such program.

On the other hand, this infrastructure program presents privacy and security issues. Safeguards must be placed to prevent unauthorized access to classified information. This issue is highlighted in the financial institutions and the government where unauthorized access to information could lead to unfair market advantage and national security breach, respectively. As such, we should enact a law that would punish persons who established peer-to-peer infrastructure without providing the proper safeguard.

This bill seeks to punish persons who creates infrastructure without appropriate warning and safeguard to users in the financial industry and the government to protect the information stored in their computer or disable such users' right to protect such information.

MIRIAM DEFENSOR SANTIAGO

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1 AN ACT  
2 TO PREVENT THE INADVERTENT DISCLOSURE OF INFORMATION ON A  
3 COMPUTER THROUGH THE USE OF CERTAIN PEER-TO-PEER FILE SHARING  
4 SOFTWARE WITHOUT FIRST PROVIDING NOTICE AND OBTAINING CONSENT  
5 FROM THE OWNER OR AUTHORIZED USER OF THE COMPUTER  
6

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

9 SECTION 1. *Short Title.* – This Act shall be known as the “Informed P2P User Act.”

10 SECTION 2. *Definitions.* – The purposes of this Act the term –

11 A. PROTECTED COMPUTER - means a computer –

- 12 1. exclusively for the use of a financial institution or the government, or, in  
13 the case of a computer not exclusively for such use, used by or for a  
14 financial institution or the government and the conduct constituting the  
15 offense affects that use by or for the financial institution or the  
16 government; or  
17 2. which is used in foreign commerce or communication, including a  
18 computer located outside the country that is used in a manner that affects  
19 foreign commerce or communication of the Philippines;

20 B. PEER-TO-PEER FILE SHARING PROGRAM - means computer software that

21 allows the computer on which such software is installed –

- 22 1. to designate files available for transmission to another computer;  
23 2. to transmit files directly to another computer; and  
24 3. to request the transmission of files from another computer.

1           SECTION 3. *Improper Disclosure of Personal Information without Notice and Consent.*

2   – It is unlawful for any person who is not an owner or authorized user of a protected computer to  
3   cause or induce an owner or authorized user of the protected computer to make files from a  
4   protected computer available to another computer through a peer-to-peer file sharing program  
5   without—

6           A. immediately prior to the installation of such program—

- 7                 1. providing clear and conspicuous notice that such program allows files on the  
8                     protected computer to be available for searching and copying by another  
9                     computer; and  
10                 2. obtaining the informed consent to the installation of such program from an  
11                     owner or authorized user of the protected computer; and

12           B. immediately prior to initial activation of a file sharing function of such program—

- 13                 1. providing clear and conspicuous notice of which files are to be made available  
14                     to another computer; and  
15                 2. obtaining the informed consent from an owner or authorized user of the  
16                     protected computer for such files to be made available.

17           SECTION 4. *Preventing the Disabling or Removal of Certain Software.* – It is unlawful  
18   for any person who is not an owner or authorized user of a protected computer--

19           A. to prevent the reasonable efforts of an owner or authorized user from blocking the  
20                 installation of a peer-to-peer file sharing program or function thereof; or

21           B. to fail to provide a reasonable and effective means to disable or remove from the  
22                 protected computer any peer-to-peer file sharing program or function thereof that the  
23                 person caused to be installed on that computer or induced another person to install.

24           SECTION 5. *Penalties.* – Any person who shall violate any provision of this Act shall  
25   upon conviction, be subject to a fine of not less than One hundred thousand pesos (P100,000.00)  
26   but not more than five hundred thousand pesos (P500,000.00) or imprisonment of not less than  
27   one (1) year but not more than five (5) years, or both upon the discretion of the court.

1           SECTION 6. *Separability Clause.* – If any provision or part hereof, is held invalid or  
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
3 valid and subsisting.

4           SECTION 7. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
5 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent  
6 with the provision of this Act is hereby repealed, modified, or amended accordingly.

7           SECTION 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
8 publication in at least two (2) newspapers of general circulation.

9           Approved,

/apm03272009