

2019 Regular Session

HOUSE BILL NO. 74

BY REPRESENTATIVE TERRY LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Provides relative to computer-related crimes committed against the state

1 AN ACT

2 To amend and reenact R.S. 14:73.1(12), (13), and (14), and to enact R.S. 14:73.1(15) and
3 73.11, relative to computer-related crimes; to create the crime of trespass against
4 state computers; to provide for elements of the crime; to provide for criminal
5 penalties; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:73.1(12), (13), and (14) are hereby amended and reenacted and
8 R.S. 14:73.1(15) and 73.11 are hereby enacted to read as follows:

9 §73.1. Definitions

10 As used in this Subpart unless the context clearly indicates otherwise:

11 * * *

12 (12) "Internet-connected device" means a physical object that does both of
13 the following:

14 (a) Is capable of connecting to, and is in regular connection with, the
15 internet.

16 (b) Has computer processing capabilities that can collect, send, or receive
17 data.

18 ~~(12)~~(13) "Proper means" includes:

19 (a) Discovery by independent invention.

1 (b) Discovery by "reverse engineering", that is by starting with the known
2 product and working backward to find the method by which it was developed. The
3 acquisition of the known product must be by lawful means.

4 (c) Discovery under license or authority of the owner.

5 (d) Observation of the property in public use or on public display.

6 (e) Discovery in published literature.

7 ~~(13)~~(14) "Property" means property as defined in R.S. 14:2(8) and shall
8 specifically include but not be limited to financial instruments, electronically stored
9 or produced data, and computer programs, whether in machine readable or human
10 readable form.

11 ~~(14)~~(15) "Unsolicited bulk electronic mail" means any electronic message
12 which is developed and distributed in an effort to sell or lease consumer goods or
13 services and is sent in the same or substantially similar form to more than one
14 thousand recipients.

15 * * *

16 §73.11. Trespass against state computers

17 A. It is unlawful for any person to knowingly or intentionally access, or to
18 exceed authorized access of, a computer, computer server, computer program,
19 computer service, computer software, internet-connected device, or computer system
20 or program that is owned, operated, or utilized by the state of Louisiana, its
21 contractors, or its political subdivisions, without authorization when it is done for
22 any of the following purposes:

23 (1) Obtaining, seeking, utilizing, destroying, viewing, or affecting
24 information that has been determined by the state of Louisiana to require protection
25 against unauthorized disclosure for reasons of protecting public health, safety,
26 welfare, or an ongoing law enforcement investigation.

27 (2) Willfully communicating, delivering, transmitting, or causing or
28 threatening to communicate, deliver, or transmit information to any person not
29 entitled to receive such information when the information has been determined by

1 the state of Louisiana to require protection against unauthorized disclosure for
2 reasons of protecting public health, safety, welfare, or an ongoing law enforcement
3 investigation.

4 (3) Initiating a denial of service attack or introducing malicious or any type
5 of destructive or harmful software or program that negatively affects or impacts such
6 computers, computer servers, computer programs, computer services, computer
7 software, internet-connected devices or computer systems or programs.

8 B. Information, documents, or records deemed confidential or not subject to
9 disclosure or inspection under R.S. 44.1 et seq., shall be considered information that
10 has been determined by the state of Louisiana to require protection against
11 unauthorized disclosure for reasons of protecting the public health, safety, welfare,
12 or an ongoing law enforcement investigation under Paragraphs (A)(1) and (2) of this
13 Section.

14 C.(1) Any person convicted of a first offense of Paragraph (A)(1) of this
15 Section shall be subject to a fine of not more than ten thousand dollars,
16 imprisonment, with or without hard labor, for not more than ten years, or both.

17 (2) Any person convicted of a first offense of Paragraph (A)(2) or (3) of this
18 Section shall be subject to a fine of not more than fifteen thousand dollars,
19 imprisonment, with or without hard labor, for not more than fifteen years, or both.

20 (3) Any person convicted of a second or subsequent offense of Subsection
21 A of this Section shall be subject to a fine of not more than twenty thousand dollars,
22 imprisonment, with or without hard labor, for not more than twenty years, or both.

23 (4) In addition to the penalties provided in Paragraphs (C)(1) and (2) of this
24 Section, the following property of any individual who is convicted of trespass against
25 state computers shall be subject to forfeiture to the state of Louisiana and no property
26 rights shall exist therein:

27 (a) Any personal property used or intended to be used to commit or to
28 facilitate the commission of any violation of this Section, or conspiracy to commit
29 a violation of this Section.

- 1 (b) Any property, movable or immovable, which constitutes or is derived
 2 from proceeds traceable to any violation of this Section, or a conspiracy to commit
 3 a violation of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 74 Engrossed

2019 Regular Session

Terry Landry

Abstract: Creates the crime of trespass against state computers, provides penalties for persons convicted of trespass against state computers, and provides a definition for "internet-connected device".

Proposed law creates the crime of trespass against state computers and defines it as knowingly accessing a computer owned, operated, or utilized by the state of La., its contractors, or its political subdivisions without authorization, or exceeding authorized access, when it is done for any of the following purposes:

- (1) To obtain information that has been determined to require protection against unauthorized disclosure.
- (2) To transmit or threaten to transmit information that has been determined to require protection against unauthorized disclosure.
- (3) To initiate a denial of service attack or to introduce malicious or destructive software that negatively affects the computers.

Proposed law provides the following penalties for the crime of trespass against state computers:

- (1) For a first offense, when the offense involves the activity defined in Paragraph (1) above: a fine of not more than \$10,000, imprisonment, with or without hard labor, for not more than 10 years, or both.
- (2) For a first offense, when the offense involves the activities defined in Paragraphs (2) and (3) above: a fine of not more than \$15,000, imprisonment, with or without hard labor, for not more than 15 years or both.
- (3) For any second or subsequent offense: a fine of not more than \$20,000, imprisonment, with or without hard labor, for not more than 20 years, or both.

In addition to the penalties listed, proposed law provides that the person convicted of a crime of trespass against state computers shall also be subject to forfeiture of any personal property used or intended to be used to commit the crime and any property which constitutes or is derived from proceeds traceable to any violation of trespass to state computers.

Present law provides definitions for computer-related crimes.

Proposed law expands the present law list of definitions pertaining to computer-related crimes by including a definition of "internet-connected device".

(Amends R.S. 14:73.1(12), (13), and (14); Adds R.S. 14:73.1(15) and 73.11)