

LA Electronic Crime Statutes

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SUBPART D. COMPUTER RELATED CRIME

§73.1. Definitions

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

(1) "Access" means to program, to execute programs on, to communicate with, store data in, retrieve data from, or otherwise make use of any resources, including data or programs, of a computer, computer system, or computer network.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system.

"Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(5) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network, and also includes but is not limited to data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

(6) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(7) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(8) "Electronic mail service provider" means any person who both:

(a) Is an intermediary in sending or receiving electronic mail.

(b) Provides to end-users of electronic mail services the ability to send or receive electronic mail.

(9) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, access card as defined in R.S. 14:67.3, or marketable security.

(10) "Intellectual property" includes data, computer programs, computer software, trade secrets as defined in R.S. 51:1431(4), copyrighted materials, and confidential or proprietary information, in any form or medium, when such is

stored in, produced by, or intended for use or storage with or in a computer, a computer system, or a computer network.

(11) "Proper means" includes:

(a) Discovery by independent invention.

(b) Discovery by "reverse engineering", that is by starting with the known product and working backward to find the method by which it was developed.

The acquisition of the known product must be by lawful means.

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

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

(e) Discovery in published literature.

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

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

Acts 1984, No. 711, §1; Acts 1999, No. 1180, §1.

§73.2. Offenses against intellectual property

A. An offense against intellectual property is the intentional:

(1) Destruction, insertion, or modification, without consent, of intellectual property; or

(2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

B. (1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

C. The provisions of this Section shall not apply to disclosure, use, copying, taking, or accessing by proper means as defined in this Subpart.

Acts 1984, No. 711, §1.

§73.3. Offenses against computer equipment or supplies

A. An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system, or computer network.

B. (1) Whoever commits an offense against computer equipment or supplies shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.4. Offenses against computer users

A. An offense against computer users is the intentional denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network, or computer services.

B. (1) Whoever commits an offense against computer users shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.5. Computer fraud

A. Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof with the intent to:

(1) Defraud; or

(2) Obtain money, property, or services by means of false or fraudulent conduct, practices, or representations, or through the fraudulent alteration, deletion, or insertion of programs or data.

B. Whoever commits computer fraud shall be fined not more than ten thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

Acts 1984, No. 711, §1; Acts 1988, No. 184, §1, eff. July 1, 1988

§73.6. Offenses against electronic mail service provider

A. It shall be unlawful for any person to use a computer, a computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider.

Transmission of electronic mail from an organization to its members or noncommercial electronic mail transmissions shall not be deemed to be unsolicited bulk electronic mail.

B. It is unlawful for any person to use a computer or computer network without authority with the intent to falsify or forge electronic mail transmission

information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers. It is also unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which is any of the following:

(1) Primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars.

D. Nothing in this Section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software, or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, an electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this Section.

Acts 1999, No. 1180, §1.

§73.7. Computer tampering

A. Computer tampering is the intentional commission of any of the actions enumerated in this Subsection when that action is taken knowingly and without the authorization of the owner of a computer:

(1) Accessing or causing to be accessed a computer or any part of a computer or any program or data contained within a computer.

(2) Copying or otherwise obtaining any program or data contained within a computer.

(3) Damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(4) Introducing or attempting to introduce any electronic information of any kind and in any form into one or more computers, either directly or indirectly, and either simultaneously or sequentially, with the intention of damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of

the computer to access or utilize the computer or any program or data contained within the computer.

B. For purposes of this Section:

(1) Actions which are taken without authorization include actions which intentionally exceed the limits of authorization.

(2) If an owner of a computer has established a confidential or proprietary code which is required in order to access a computer, and that code has not been issued to a person, and that person uses that code to access that computer or to cause that computer to be accessed, that action creates a rebuttable presumption that the action was taken without authorization or intentionally exceeded the limits of authorization.

(3) The vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company are the services or operations which are necessary to protect the public health, safety, and welfare, and include but are not limited to: law enforcement; fire protection; emergency services; health care; transportation; communications; drainage; sewerage; and utilities, including water, electricity, and natural gas and other forms of energy.

C. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(1) and (2) of this Section shall be fined not more than five hundred dollars or imprisoned for not more that six months, or both.

D. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more that five years, or both.

E. Whoever violates the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section with the intention of disrupting the vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company, or with the intention of causing death or great bodily harm to one or more persons, shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more that fifteen years, or both.

Acts 2001, No. 829, §1.

CHAPTER 29. SOFTWARE LICENSE ENFORCEMENT ACT

§1961. Title

This Chapter shall be known as the Software License Enforcement Act.
Acts 1984, No. 744, §1.

§1962. Definitions

For purposes of this Chapter the following terms shall have the meanings set forth herein:

(1) "Computer software" means a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result, in any form in which such statements or instructions may be fixed, by any method now known or hereafter developed, regardless of whether such statements or instructions are capable of being perceived by or communicated to humans, together with any associated documentation and materials.

(2) "License agreement" means any written document on which the word "license", either alone or in combination with other words, appears prominently at or near the top of such document in such a position of prominence so as to be readily noticeable to a person of average literacy viewing such document.

(3) "Reverse engineering, decompiling or disassembling" means any process by which computer software is converted from one form to another form which is more readily understandable to human beings, including without limitation any decoding or decrypting of any computer program which has been encoded or encrypted in any manner.

Acts 1984, No. 744, §1.

§1963. Requirements for enforceability

Any person who acquires computer software or a copy thereof shall be conclusively deemed to have accepted and agreed to all the terms of the license agreement for such software or copy thereof, including any applicable provisions contained in R.S. 51:1964, if:

(1) A written legend or notice is affixed to or packaged with the software or copy thereof in such a manner that the legend or notice is clearly and conspicuously visible upon cursory examination of the software and related packaging; and

(2) The legend or notice is prominently displayed in all capital letters and in language which is readily understandable to a person of average literacy; and

(3) The legend or notice states clearly that:

(a) Any use of the software or copy thereof will constitute acceptance of the terms of the accompanying license agreements; or,

(b) Any opening of a sealed package, envelope, or container in which the software or copy thereof is contained will constitute acceptance of the terms of the accompanying license agreement; and

(4) The legend or notice states clearly that anyone who receives the software or a copy thereof and does not accept and agree to the terms of the accompanying license agreement may, within a reasonable time, return the unused, unopened software or copy thereof to the party from whom it was acquired, or to some other identified party, for a full refund of any consideration paid; and

(5) The person acquiring the software or copy thereof takes such action as is stated in the legend or notice to constitute acceptance of and agreement to the terms of the accompanying license agreement.

Acts 1984, No. 744, §1.

§1964. Terms deemed accepted

Terms of which shall be deemed to have been accepted under R.S. 51:1963, if included in an accompanying license agreement which conforms to the provisions of R.S. 51:1965, may include any or all of the following:

(1) Provisions for the retention by the licensor of title to the copy of the computer software.

(2) If title to the copy of computer software has been retained by the licensor, provisions for the prohibition of any copying of the copy of computer software for any purpose and/or limitations on the purposes for which copies of the computer software can be made and/or limitations on the number of copies of the computer software which can be made.

(3) If title to the copy of computer software has been retained by the licensor, provisions for the prohibition or limitation of rights to modify and/or adapt the copy of the computer software in any way, including without limitation prohibitions on translating, reverse engineering, decompiling, disassembling, and/or creating derivative works based on the computer software.

(4) If title to the copy of computer software has been retained by the licensor, provisions for prohibitions on further transfer, assignment, rental, sale, or other disposition of that copy or any other copies made from that copy of the computer software, provided that terms which prohibit the transfer of a copy of computer software in connection with the sale or transfer by operation of law of all or substantially all of the operating assets of a licensee's business shall to that extent only not be deemed to have been accepted under R.S. 51:1963.

(5) Provisions for the automatic termination without notice of the license agreement if any provisions of the license agreement are breached by the licensee.

Acts 1984, No. 744, §1.

§1965. Display of terms of license agreement

In order to be deemed accepted pursuant to R.S. 51:1963, the terms of the accompanying license agreement must be clearly and conspicuously stated in the license agreement in language readily understandable to the person of average literacy, and the license agreement must be attached to or packaged with the copy of the computer software in such a manner that the terms are susceptible to being readily examined before the act which is deemed to constitute acceptance occurs.

Acts 1984, No. 744, §1.

§1966. Enforceability

The provisions of this Chapter are not intended to limit in any manner the effectiveness or enforceability of any of the provisions of such a license agreement

under any other provisions of the laws of this state, nor is this Chapter intended to limit in any manner the laws of this state or any other laws.

Acts 1984, No. 744, §1.

15:13.1

15:13.3

15:13.4