

Senate Bill 24

By: Senators Staton of the 18th, Shafer of the 48th, Chance of the 16th, Carter of the 13th, Rogers of the 21st and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to computer systems security, so as to prohibit persons from using the Internet or  
3 electronic mail to induce another to provide identifying information by falsely representing  
4 themselves to be a business without the authority or approval of the business; to provide  
5 definitions; to provide for penalties and sanctions; to provide for civil actions; to provide for  
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 computer systems security, is amended by adding a new Part 4 to read as follows:

11 **"Part 4**

12 16-9-109.1.

13 (a) As used in this part, the term:

14 (1) 'Electronic mail message' means a message sent to a unique destination, commonly  
15 expressed as a string of characters, consisting of a unique user name or mailbox,  
16 commonly referred to as the 'local part,' and a reference to an Internet domain, commonly  
17 referred to as the 'domain part', whether or not displayed, to which an electronic message  
18 can be sent or delivered.

19 (2) 'Identifying information' means, with respect to an individual, any of the following:

- 20 (A) Social security number;  
21 (B) Driver's license number;  
22 (C) Bank account number;  
23 (D) Credit card or debit card number;  
24 (E) Personal identification number or PIN;  
25 (F) Automated or electronic signature;

- 1 (G) Unique biometric data;
- 2 (H) Account password; or
- 3 (I) Any other piece of information that can be used to access an individual's financial  
4 accounts or to obtain goods or services.
- 5 (3) 'Internet' shall have the meaning as defined in paragraph (10) of Code Section  
6 16-9-151.
- 7 (4) 'Web page' means a location that has a single uniform resource locator or other single  
8 location with respect to the Internet.
- 9 (b) It shall be unlawful for any person, by means of a Web page, electronic mail message,  
10 or otherwise through use of the Internet, to solicit, request, or take any action to induce  
11 another person to provide identifying information by representing himself, herself, or itself  
12 to be a business without the authority or approval of such business.
- 13 (c) Any person who violates subsection (b) of this Code section shall be guilty of a felony  
14 and, upon conviction thereof, shall be sentenced to serve not less than one nor more than  
15 20 years in prison or to pay a fine of not less than \$1,000.00 nor more than \$500,000.00,  
16 or both.
- 17 (d) The following persons may bring an action against a person who violates or is in  
18 violation of subsection (b) of this Code section:
- 19 (1) Any person who is engaged in the business of providing Internet access service to the  
20 public, owns a Web page, or owns a trademark; and is adversely affected by a violation  
21 of subsection (b) of this Code section. An action brought under this paragraph may seek  
22 to recover the greater of actual damages or \$500,000.00; or
- 23 (2) An individual who is adversely affected by a violation of subsection (b) of this Code  
24 section, but only against a person who has directly violated subsection (b) of this Code  
25 section. An action brought under this paragraph may seek to enjoin further violations of  
26 subsection (b) of this Code section and to recover the greater of three times the amount  
27 of actual damages or \$5,000.00 for each violation.
- 28 (e) The Attorney General or a district attorney may bring an action against a person who  
29 violates or is in violation of subsection (b) of this Code section to enjoin further violations  
30 of subsection (b) of this Code section and to recover a civil penalty not to exceed \$2,500.00  
31 for each violation.
- 32 (f) In a civil action pursuant to subsection (d) of this Code section, a court may, in addition  
33 to the remedies provided in such subsection, increase the recoverable damages to an  
34 amount up to three times the damages otherwise recoverable under subsection (d) of this  
35 Code section in cases in which the defendant has engaged in a pattern and practice of  
36 violating subsection (b) of this Code section or award costs of the action and reasonable  
37 attorney's fees to a prevailing plaintiff, or both.

1 (g) The remedies provided in this Code section do not preclude the seeking of any other  
2 remedies, including criminal remedies, under any other applicable provision of law.

3 (h) For purposes of paragraph (1) of subsection (d) of this Code section, multiple  
4 violations of subsection (b) of this Code section resulting from any single action or conduct  
5 shall constitute one violation.

6 (i)(1) For the purposes of this subsection, the term 'employer' includes a business entity's  
7 officers, directors, parent corporation, subsidiaries, affiliates, and other corporate entities  
8 under common ownership or control within a business enterprise. No employer may be  
9 held criminally or civilly liable under this Code section as a result of any actions taken:

10 (A) With respect to computer equipment used by its employees, contractors,  
11 subcontractors, agents, leased employees, or other staff which the employer owns,  
12 leases, or otherwise makes available or allows to be connected to the employer's  
13 network or other computer facilities; or

14 (B) By employees, contractors, subcontractors, agents, leased employees, or other staff  
15 who misuse an employer's computer equipment for an illegal purpose without the  
16 employer's knowledge, consent, or approval.

17 (2) No person shall be held criminally or civilly liable under this Code section when its  
18 protected computers have been used by unauthorized users to violate this Code section  
19 or other laws without such person's knowledge, consent, or approval.

20 (3) A manufacturer or retailer of computer equipment shall not be liable under this Code  
21 section, criminally or civilly, to the extent that the manufacturer or retailer is providing  
22 third-party branded software that is installed on the computer equipment that the  
23 manufacturer or retailer is manufacturing or selling."

## 24 **SECTION 2.**

25 All laws and parts of laws in conflict with this Act are repealed.