

The Senate Science and Technology Committee offered the following substitute to SB 24:

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:

**SECTION 1.**

8 Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to  
9 computer systems security, is amended by adding a new Part 4 to read as follows:  
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11 style="text-align:center">"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;

1 (F) Automated or electronic signature;

2 (G) Unique biometric data;

3 (H) Account password; or

4 (I) Any other piece of information that can be used to access an individual's financial  
5 accounts or to obtain goods or services.

6 (3) 'Interactive computer service' means an information service or system that enables  
7 computer access by multiple users to a computer server, including, specifically, a service  
8 or system that provides access to the Internet or to software services available on a server,  
9 and such systems operated or services offered by a library or educational institution.

10 (4) 'Internet' shall have the meaning as defined in paragraph (10) of Code  
11 Section 16-9-151.

12 (5) 'Web page' means a location that has a single uniform resource locator or other single  
13 location with respect to the Internet.

14 (b)(1) It shall be unlawful for any person with intent to defraud, by means of a web page,  
15 electronic mail message, or otherwise through use of the Internet, to solicit, request, or  
16 take any action to induce another person to provide identifying information by  
17 representing himself, herself, or itself to be a business without the authority or approval  
18 of such business.

19 (2) No person shall, with actual knowledge, conscious avoidance of actual knowledge,  
20 or willfully, possess with intent to use in a fraudulent manner, sell, or distribute any  
21 identifying information obtained in violation of paragraph (1) of this subsection.

22 (c) Any person who intentionally violates subsection (b) of this Code section shall be  
23 guilty of a felony and, upon conviction thereof, shall be sentenced to serve not less than  
24 one nor more than 20 years in prison or to pay a fine of not less than \$1,000.00 nor more  
25 than \$500,000.00, or both.

26 (d) The following persons may bring an action against a person who violates or is in  
27 violation of subsection (b) of this Code section:

28 (1) Any person who is engaged in the business of providing Internet access service to the  
29 public, owns a web page, or owns a trademark and is adversely affected by a violation of  
30 subsection (b) of this Code section. An action brought under this paragraph may seek to  
31 recover the greater of actual damages or \$500,000.00; or

32 (2) An individual who is adversely affected by a violation of subsection (b) of this Code  
33 section, but only against a person who has directly violated subsection (b) of this Code  
34 section. An action brought under this paragraph may seek to enjoin further violations of  
35 subsection (b) of this Code section and to recover the greater of three times the amount  
36 of actual damages or \$5,000.00 for each violation.

1 (e) The Attorney General or a district attorney may bring an action against a person who  
 2 violates or is in violation of subsection (b) of this Code section to enjoin further violations  
 3 of subsection (b) of this Code section and to recover a civil penalty not to exceed \$2,500.00  
 4 for each violation.

5 (f) In a civil action pursuant to subsection (d) of this Code section, a court may, in addition  
 6 to the remedies provided in such subsection, increase the recoverable damages to an  
 7 amount up to three times the damages otherwise recoverable under subsection (d) of this  
 8 Code section in cases in which the defendant has engaged in a pattern and practice of  
 9 violating subsection (b) of this Code section or award costs of the action and reasonable  
 10 attorney's fees to a prevailing plaintiff, or both.

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

13 (h) For purposes of subsection (d) of this Code section, multiple violations of subsection  
 14 (b) of this Code section resulting from any single action or conduct shall constitute one  
 15 violation.

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

20 (A) With respect to computer equipment used by its employees, contractors,  
 21 subcontractors, agents, leased employees, or other staff which the employer owns,  
 22 leases, or otherwise makes available or allows to be connected to the employer's  
 23 network or other computer facilities when such equipment is used for an illegal purpose  
 24 without the employer's knowledge, consent, or approval; or

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

28 (2) No person shall be held criminally or civilly liable under this Code section when its  
 29 protected computers, computer equipment, or software product has been used by  
 30 unauthorized users to violate this Code section or other laws without such person's  
 31 knowledge, consent, or approval.

32 (j) This Code section shall not apply to a telecommunications provider's or Internet service  
 33 provider's good faith transmission or routing of, or intermediate temporary storing or  
 34 caching of, identifying information."

## 35 SECTION 2.

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