I Mina'Trentai Dos Na Liheslaturan Received

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
317-32 (LS)	T.A. Morrison	AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 46 OF 9GCA RELATIVE TO THE CRIME OF PHISHING.	4/14/14 12:31 p.m.	04/14/14	Committee on the Guam U. S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary	04/28/14 9 a.m.	5/28/14 3:56 p.m.	**Fiscal Note Request 4/15/14** **Fiscal Note Received 4/15/14**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
	7/1/2014	AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CRIME OF PHISHING.	7/2/14	9:10 a.m.	07/12/14			**As amended on the Floor.**

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

July 1, 2014

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 9:10 am DATE 7/2/14

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 249-32 (COR), 312-32 (LS), 316-32 (LS), 317-32 (LS), 318-32 (COR), 319-32 (LS), 340-32 (COR) and 355-32 (COR), which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on July 1, 2014.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosures (8)

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 317-32 (LS), "AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CRIME OF PHISHING,"** was on the 1st day of July, 2014, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 2nd day of July, 2014, at 9:10 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 317-32 (LS)
As amended on the Floor.

Introduced by:

Tommy Morrison
Michael F. Q. San Nicolas
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE CRIME OF PHISHING.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 4 is *added* to Chapter 46 of Title 9, Guam Code Annotated, to read as follows:

"**ARTICLE 4**

ANTI-PHISHING ACT

§ 46.400. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that phishing or pharming are acts that defraud someone by using a

false website, or pretending to be a legitimate business on the web, and fraudulently obtaining identifying information. This Act enables lawsuits by internet service providers and owners of webpages or trademarks that are used without authorization in the conduct of a violation. It is the intent of *I Liheslatura* to ensure that phishing and pharming are illegal and that Guam has the ability to prosecute the bad actors that prey on the residents of Guam.

§ 46.401. Definitions. As used in this Act:

(a) *entity* includes corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments, governmental subdivisions, agencies, or instrumentalities, or any other legal entity, whether for profit or not-for-profit;

(b) *individual* means a natural person;

(c) *identifying information* means any information that can be used to access an individual's financial accounts or to obtain goods and services, including, but *not* limited to, address, birth date, social security number, driver's license number, non-driver governmental identification number, telephone number, bank account number, student identification, credit or debit card number, personal identification number, unique biometric data, employee or payroll number, automated or electronic signature, computer image, photograph, screen name or password. The term does *not* include information that is lawfully obtained from publicly available information, or from federal or local government records lawfully made available to the general public;

(d) *false pretenses* means the representation of a fact or circumstance which is *not* true and is calculated to mislead;

(e) *webpage* means a location that has a single uniform resource locator (URL) with respect to the world wide web, or another location that can be accessed on the internet.

§ 46.402. Phishing and Pharming.

(a) Phishing. For the purposes of this Article 4, an individual or entity is guilty of phishing if, with intent to defraud or injure an individual, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone:

(1) the actor makes any communication under false pretenses purporting to be by or on behalf of a legitimate business, without the authority or approval of the business; and

(2) the actor uses that communication to induce, request, or solicit any person to provide identifying information or property.

(b) Pharming. For the purposes of this Article 4, an individual or entity is guilty of pharming if, with intent to defraud or injure an individual, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone:

(1) creates or operates a webpage that represents itself as belonging to or being associated with a legitimate business, without the authority or approval of such business, and that may induce any user of the internet to provide identifying information or property; or

(2) alters a setting on a user's computer or similar device or software program through which the user may search

the internet and thereby causes any user of the internet to view a communication that represents itself as belonging to or being associated with a legitimate business, which message has been created or is operated without the authority or approval of such legitimate business and induces, requests or solicits any user of the internet to provide identifying information or property.

§ 46.403. Immunity for Disabling Phishing and Pharming Sites. No internet registrar or internet service provider may be held liable under any provision of the laws of Guam for removing or disabling access to an internet domain name controlled or operated by such registrar or by such provider, or to content that resides on an internet website or other online location controlled or operated by such provider, and that such provider believes in good faith is used to engage in a violation of this Act.

§ 46.404. Violations.

(a) A person who violates this Act is guilty of a third degree felony, and is subject to a fine *not to exceed* Five Thousand Dollars ($5,000), or imprisonment *not to exceed* five (5) years, or both.

(b) The following persons may bring a civil action against a person who violates this Act:

(1) an internet service provider who is adversely affected by the violation;

(2) an owner of a webpage, computer server, or a trademark that is used without authorization in the violation; or

(3) the Attorney General.

(c) Except as provided by paragraph 3, a person permitted to bring a civil action may obtain either actual damages for a violation of

this Act, or a civil penalty *not to exceed* One Hundred Fifty Thousand Dollars ($150,000) per violation of this Act.

§ 46.405. Applicability. This Act *shall* apply to the discovery of a phishing or pharming incident that occurs on or after the effective date of this Act. This Act *does not* apply to a telecommunications provider's or internet service provider's good faith transmission or routing of, or intermediate temporary storing or caching of, identifying information.

§ 46.406. Severability. *If* any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

§ 46.407. Effective Date. This Act *shall* take effect one hundred twenty (120) days after the date of enactment."

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 317-32 (LS)
As amended on the Floor.
*****

Introduced by:

Tommy Morrison
Michael F. Q. San Nicolas

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(c) *identifying information* means any information that can be used to access an individual's financial accounts or to obtain goods and services, including, but *not* limited to, address, birth date, social security number, driver's license number, non-driver governmental identification number, telephone number, bank account number, student identification, credit or debit card number, personal identification number, unique biometric data, employee or payroll number, automated or electronic signature, computer image, photograph, screen name or password. The term does *not* include information that is lawfully obtained from publicly available information, or from federal or local government records lawfully made available to the general public;

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(2) alters a setting on a user's computer or similar device or software program through which the user may search the internet and thereby causes any user of the internet to view a communication that represents itself as belonging to or being associated with a legitimate business, which message has been created or is operated without the authority or approval of such legitimate business and induces, requests or solicits any user of the internet to provide identifying information or property.

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LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2014 (SECOND) Regular Session

Voting Sheet

BILL NO. 317-32 (LS)

Speaker Antonio R. Unipingco Legislative Session Hall

DATE: 7/1/14

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Vicente (ben) Cabrera PANGELINAN					✓ Ex.
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				
TOTAL	14				1 Ex.
	Yea	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass