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
318-32 (LS)	T.A. Morrison	AN ACT TO ADD A NEW ARTICLE 5 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO CREATING THE "COMPUTER PROTECTION ACT,"	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.	6/16/14 4:14 p.m.	**Fiscal Note Request 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 5 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER PROTECTION ACT."	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. 318-32 (LS), "AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER PROTECTION ACT,"** 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. 318-32 (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 5 TO CHAPTER 46, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE "COMPUTER PROTECTION ACT."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 5 is *added* to Chapter 46 of Title 9, Guam Code Annotated, to read:

"ARTICLE 5

COMPUTER PROTECTION ACT

§ 46.500. Legislative Intent.

It is the intent of *I Liheslaturan Guåhan* to prohibit a person from using specified protected computers to relay or retransmit commercial electronic mail messages with the intent to deceive or mislead recipients, or an electronic mail service provider under specified circumstances; to prohibit a person from materially falsifying header information in commercial electronic mail messages under specified circumstances; to prohibit a person from registering for electronic mail accounts or domain names under specified circumstances; and to provide for specified penalties and fines.

§ 46.501. Definitions.

In this Act, the following words have the meanings indicated:

(a) *commercial electronic mail message* means an electronic message sent primarily for the purpose of commercial advertisement or promotion of:

(1) a commercial product;

(2) a commercial service;

(3) the content on an Internet website; or

(4) a website operated for a commercial purpose;

(b) *domain name* means any alphanumeric designation that is registered with or assigned by a domain name registrar, domain name registry, or other domain name registration authority as part of an electronic mail address on the internet;

(c) *electronic mail service provider* means any person, including an internet service provider, that is an intermediary in sending and receiving electronic mail, and that provides to the public the ability to send or receive electronic mail to or from an electronic mail account or online user account;

(d) *financial institution* means any financial institution of the type supervised under 11GCA, whether or not locally-chartered;

(e) *header information* means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mails, and any other information that appears in the line identifying or purporting to identify a person initiating the message, and technical information that authenticates the sender of an electronic mail message for network security or network management purposes;

(f) the term *initiate*, when used with respect to a commercial electronic mail message, means to originate or transmit the message or to procure the origination or transmission of the message, and *does not* include actions that constitute routine conveyances of such message;

(g) *internet* means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(h) *internet protocol address* means the string of numbers by which a location on the internet is identified by routers or other computers connected to the internet;

(i) *materially falsified* means altered or concealed in a manner that would impair the ability of one of the following to identify, locate, or respond to a person who initiated an electronic mail message or to investigate an alleged violation of this Act:

(1) a recipient of the message;

(2) an internet access service processing the message on behalf of a recipient;

(3) a person alleging a violation of this Act; or

(4) a law enforcement agency;

(j) *multiple* means:

(1) more than ten (10) commercial electronic mail messages during a twenty four (24)-hour period;

(2) more than one hundred (100) commercial electronic mail messages during a thirty (30)-day period; or

(3) more than one thousand (1,000) commercial electronic mail messages during a one (1)-year period;

(k) *protected computer* means a computer used in intrastate or interstate communication;

(l) *routine conveyance* means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipients' addresses.

§ 46.502. Violations. A person *may not* conspire to or knowingly:

(a) use a protected computer of another to relay or retransmit multiple commercial electronic mail messages with the intent to deceive or mislead recipients or an electronic mail service provider as to the origin of the message;

(b) materially falsify header information in multiple commercial electronic mail messages and intentionally initiate the transmission of the messages;

(c) register, using information that materially falsifies the identity of the actual registrant, for fifteen (15) or more electronic mail accounts or on-line user accounts of two or more domain names, and intentionally initiate the transmission of multiple commercial

electronic mail messages from one or any combination of accounts or domain names;

(d) falsely represent the right to use five (5) or more internet protocol addresses and intentionally initiate the transmission of multiple commercial electronic mail messages from the internet protocol addresses;

(e) access a protected computer of another without authorization, and intentionally initiate the transmission of multiple electronic mail advertisements from or through the protected computer;

(f) violate Subsections (a), (b), (c), (d) or (e) of this Section by providing or selecting addresses to which a message was transmitted, knowing that:

(1) the electronic mail addresses of the recipients were obtained using an automated means from an internet website or proprietary online service operated by another person; and

(2) the website or online service included, at the time the addresses were obtained, a notice stating that the operator of the website or online service will *not* transfer addresses maintained by the website or online service to any other party for the purposes of initiating or enabling others to initiate electronic mail messages; or

(g) violate Subsections (a), (b), (c), (d) or (e) of this Section by providing or selecting electronic mail addresses of recipients obtained using an automated means that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

§ 46.503. Penalties.

(a) A person who violates § 46.502 (a), (b), (c), (d) or (e) is guilty of a third degree felony, and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars ($5,000), or both.

(b) A person who violates § 46.502 (a), (b), (c), (d) or (e) involving the transmission of more than two hundred fifty (250) commercial electronic mail messages during a twenty-four (24) hour period; two thousand five hundred (2,500) commercial electronic mail messages during any thirty (30)-day period; or twenty five thousand (25,000) commercial electronic mail messages during any one (1)-year period is guilty of a second degree felony, and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both.

(c) A person who violates § 46.502 (c) or (d) involving twenty (20) or more electronic mail accounts, or ten (10) or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from the accounts or using the domain names is guilty of a second degree felony, and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both.

(d) A person who violates § 46.502 (a), (b), (c), (d) or (e) that causes a loss of One Thousand Dollars ($1,000) or more during any one (1)-year period is guilty of a felony, and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars ($5,000), or both.

(e) A person who violates § 46.502 (a), (b), (c), (d) or (e) in concert with three (3) or more other persons as the leader or organizer of the action that constitutes the violation is guilty of a second degree felony, and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both.

(f) A person who violates § 46.502 (a), (b), (c), (d) or (e) in furtherance of a felony, or who has previously been convicted of an offense under the laws of Guam, another state, or under any federal law involving the transmission of multiple commercial electronic mail messages is guilty of a second degree felony, and upon conviction is subject to imprisonment not to exceed ten (10) years or a fine not to exceed Twenty Five Thousand Dollars ($25,000), or both.

(g) A person who violates § 46.502 (f) or (g) is guilty of a felony, and upon conviction is subject to imprisonment not to exceed one (1) year or a fine not to exceed Five Thousand Dollars ($5,000), or both.

§ 46.504. Forfeiture. In addition to any other sentence authorized by law, the court may direct that a person convicted of a violation of § 46.502 forfeit to the government of Guam:

(a) any moneys and other income, including all proceeds earned but not yet received by a defendant from a third party as a result of the defendant's violation of § 46.502; and

(b) all computer equipment, computer software, and personal property used in connection with a violation of this section known by the owner to have been used in violation of § 46.502.

§ 46.505. Civil Action by Attorney General.

(a) An action brought under this Subsection *shall* be commenced within two (2) years after the commission of the act.

(b) The Attorney General may institute a civil action against a person who violates § 46.502 to recover a civil penalty not to exceed:

(1) $25,000 per day of violation; or

(2) *not less than* Two Dollars ($2.00) nor more than Eight Dollars ($8.00) per commercial electronic mail message initiated in violation of § 46.502.

(3) For any violation of this Act, the amount determined under paragraph (b) may *not* exceed Two Million Dollars ($2,000,000).

(c) The Attorney General may seek an injunction in a civil action to prohibit a person who has engaged in or is engaged in a violation of § 46.502 from engaging in the violation.

(4) The Attorney General may enforce criminal violations of this Act.

§ 46.506. Lawfulness of Electronic Mail Service Provider Policies. Nothing in this Act shall be construed to have any effect on the lawfulness of the adoption, implementation, or enforcement by an electronic mail service provider of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages under any other provision of law.

§ 46.507. 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."

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

Bill No. 318-32 (LS)
As amended on the Floor.
*

Introduced by: Tommy Morrison
Michael F. Q. San Nicolas

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LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2014 (SECOND) Regular Session

Voting Sheet

BILL NO. 319-32 (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