



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4791**

by Rep. Karen May

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16D-3

from Ch. 38, par. 16D-3

Amends the Criminal Code of 1961. Provides that it is a Class B misdemeanor for any person knowingly to sell, give, possess, use, or otherwise distribute or possess with the intent to sell, give, or distribute software that is primarily designed or produced for the purpose of interfering with the operations of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind by circumventing any security measures on the ticket seller's website, circumventing any access control systems of the ticket seller's website, or circumventing any controls or measures that are instituted by the ticket seller on its website to ensure an equitable ticket buying process.

LRB095 16983 RLC 43029 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 16D-3 as follows:

6 (720 ILCS 5/16D-3) (from Ch. 38, par. 16D-3)

7 Sec. 16D-3. Computer Tampering.

8 (a) A person commits the offense of computer tampering when  
9 he knowingly and without the authorization of a computer's  
10 owner, as defined in Section 15-2 of this Code, or in excess of  
11 the authority granted to him:

12 (1) Accesses or causes to be accessed a computer or any  
13 part thereof, a computer network, or a program or data;

14 (2) Accesses or causes to be accessed a computer or any  
15 part thereof, a computer network, or a program or data, and  
16 obtains data or services;

17 (3) Accesses or causes to be accessed a computer or any  
18 part thereof, a computer network, or a program or data, and  
19 damages or destroys the computer or alters, deletes or  
20 removes a computer program or data;

21 (4) Inserts or attempts to insert a "program" into a  
22 computer or computer program knowing or having reason to  
23 believe that such "program" contains information or

1 commands that will or may damage or destroy that computer,  
2 or any other computer subsequently accessing or being  
3 accessed by that computer, or that will or may alter,  
4 delete or remove a computer program or data from that  
5 computer, or any other computer program or data in a  
6 computer subsequently accessing or being accessed by that  
7 computer, or that will or may cause loss to the users of  
8 that computer or the users of a computer which accesses or  
9 which is accessed by such "program";

10 (5) Falsifies or forges electronic mail transmission  
11 information or other routing information in any manner in  
12 connection with the transmission of unsolicited bulk  
13 electronic mail through or into the computer network of an  
14 electronic mail service provider or its subscribers;

15 (a-5) It shall be unlawful for any person knowingly to  
16 sell, give, or otherwise distribute or possess with the intent  
17 to sell, give, or distribute software which (1) is primarily  
18 designed or produced for the purpose of facilitating or  
19 enabling the falsification of electronic mail transmission  
20 information or other routing information; (2) has only a  
21 limited commercially significant purpose or use other than to  
22 facilitate or enable the falsification of electronic mail  
23 transmission information or other routing information; or (3)  
24 is marketed by that person or another acting in concert with  
25 that person with that person's knowledge for use in  
26 facilitating or enabling the falsification of electronic mail

1 transmission information or other routing information.

2 (a-7) It is unlawful for any person knowingly to sell,  
3 give, possess, use, or otherwise distribute or possess with the  
4 intent to sell, give, or distribute software that is primarily  
5 designed or produced for the purpose of interfering with the  
6 operations of any person or entity that sells, over the  
7 Internet, tickets of admission to a sporting event, theater,  
8 musical performance, or place of public entertainment or  
9 amusement of any kind by circumventing any security measures on  
10 the ticket seller's website, circumventing any access control  
11 systems of the ticket seller's website, or circumventing any  
12 controls or measures that are instituted by the ticket seller  
13 on its website to ensure an equitable ticket buying process.

14 (a-10) For purposes of subsection (a), accessing a computer  
15 network is deemed to be with the authorization of a computer's  
16 owner if:

17 (1) the owner authorizes patrons, customers, or guests  
18 to access the computer network and the person accessing the  
19 computer network is an authorized patron, customer, or  
20 guest and complies with all terms or conditions for use of  
21 the computer network that are imposed by the owner; or

22 (2) the owner authorizes the public to access the  
23 computer network and the person accessing the computer  
24 network complies with all terms or conditions for use of  
25 the computer network that are imposed by the owner.

26 (b) Sentence.

1           (1) A person who commits the offense of computer  
2 tampering as set forth in subsection (a)(1), (a)(5), ~~or~~  
3 (a-5), or (a-7) of this Section shall be guilty of a Class  
4 B misdemeanor.

5           (2) A person who commits the offense of computer  
6 tampering as set forth in subsection (a)(2) of this Section  
7 shall be guilty of a Class A misdemeanor and a Class 4  
8 felony for the second or subsequent offense.

9           (3) A person who commits the offense of computer  
10 tampering as set forth in subsection (a)(3) or subsection  
11 (a)(4) of this Section shall be guilty of a Class 4 felony  
12 and a Class 3 felony for the second or subsequent offense.

13           (4) If the injury arises from the transmission of  
14 unsolicited bulk electronic mail, the injured person,  
15 other than an electronic mail service provider, may also  
16 recover attorney's fees and costs, and may elect, in lieu  
17 of actual damages, to recover the lesser of \$10 for each  
18 and every unsolicited bulk electronic mail message  
19 transmitted in violation of this Section, or \$25,000 per  
20 day. The injured person shall not have a cause of action  
21 against the electronic mail service provider that merely  
22 transmits the unsolicited bulk electronic mail over its  
23 computer network.

24           (5) If the injury arises from the transmission of  
25 unsolicited bulk electronic mail, an injured electronic  
26 mail service provider may also recover attorney's fees and

1 costs, and may elect, in lieu of actual damages, to recover  
2 the greater of \$10 for each and every unsolicited  
3 electronic mail advertisement transmitted in violation of  
4 this Section, or \$25,000 per day.

5 (6) The provisions of this Section shall not be  
6 construed to limit any person's right to pursue any  
7 additional civil remedy otherwise allowed by law.

8 (c) Whoever suffers loss by reason of a violation of  
9 subsection (a)(4) of this Section may, in a civil action  
10 against the violator, obtain appropriate relief. In a civil  
11 action under this Section, the court may award to the  
12 prevailing party reasonable attorney's fees and other  
13 litigation expenses.

14 (Source: P.A. 95-326, eff. 1-1-08.)