

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0740

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1194 - 02/21/2001

Introduced by: Representatives Smidt and Hansen (Tom) and Senators Bogue and Greenfield

1 FOR AN ACT ENTITLED, An Act to increase certain penalties for unlawful use of computers
2 and computer networks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-43B-1 be amended to read as follows:

5 43-43B-1. A person is guilty of unlawful use of a computer system, software, or data if he
6 the person:

7 (1) ~~Knowingly~~ Intentionally obtains the use of, ~~or~~ accesses (or exceeds authorized access
8 to), a computer system, or any part thereof, without the consent of the owner;

9 (2) ~~Knowingly alters or destroys computer programs or data without the consent of the~~
10 ~~owner; or~~

11 ~~(3) Knowingly obtains use of, alters, accesses or destroys a computer system, or any part~~
12 ~~thereof, as part of a deception for the purpose of obtaining money, property or~~
13 ~~services from the owner of a computer system or any third party; or~~

14 ~~(4) Knowingly uses or discloses to another or attempts to use or disclose to another the~~

1 ~~numbers, codes, passwords or other means of access to a computer, computer~~
2 ~~program or computer system without the consent of the owner~~ Intentionally obtains
3 the use of, accesses (or exceeds authorized access to), a computer system, or any part
4 thereof, without the consent of the owner, and such access or use includes access to
5 confidential data or material;

6 (3) Intentionally copies or obtains information from a computer system, or compromises
7 any security controls for such computer system, or uses or discloses to another, or
8 attempts to use or disclose to another, the numbers, codes, passwords, or other means
9 of access to a computer system without the consent of the owner;

10 (4) Intentionally disrupts, denies, or inhibits access to software or data without the
11 consent of the owner;

12 (5) Intentionally disrupts, denies, or inhibits access to a computer system, without the
13 consent of the owner;

14 (6) Intentionally modifies, changes, or alters software or data, without the consent of the
15 owner;

16 (7) Intentionally obtains use of, alters, accesses (or exceeds authorized access to),
17 destroys, disables, or inhibits access to a computer system, as part of a deception for
18 the purpose of obtaining money, property, or services from the owner of a computer
19 system, or any third party;

20 (8) Intentionally destroys or disables a computer system, without the consent of the
21 owner; or

22 (9) Intentionally destroys or disables software or computer data, without the consent of
23 the owner.

24 Section 2. That § 43-43B-2 be amended to read as follows:

1 43-43B-2. Terms used in this chapter, ~~unless the context requires otherwise,~~ mean:

2 (1) "Access," to instruct, communicate with, store data in, retrieve data from a ~~computer,~~
3 ~~computer system or computer network;~~

4 (2) "Computer," an internally programmed, general purpose digital device capable of
5 automatically accepting data, processing data and supplying the results of the
6 operation;

7 (3) ~~"Computer program~~ Software, a series of coded instructions or statements in a form
8 acceptable to a computer system, which causes the computer system to process data
9 in order to achieve a certain result;

10 (4) "Computer system," ~~a set of related, connected devices, including a computer and~~
11 ~~other devices, including but not limited to~~ shall include any one or more computers,
12 computer networks, other related devices, data input and output and storage devices,
13 and data communications links, ~~and computer programs and data,~~ that make the
14 system capable of performing the special purpose data processing tasks for which it
15 is specified;

16 (5) "Computer network," a set of related, connected network electronics and
17 communications links that allows any one or more computer system to communicate
18 amongst or between themselves;

19 (5A) "Data," digitized information in any form that may be accessed by a computer system,
20 regardless of whether the information is in transmission or stored on a computer
21 system, diskette, compact diskette, cd-rom, tape, or in any other medium;

22 (6) "Destroy," to make unusable, render inoperable, render unable to accept or process
23 data, or supply results, render unable to perform data processing tasks or cause
24 computer networks to be unable to transfer data between computer systems for any

1 amount of time.

2 Section 3. That § 43-43B-3 be amended to read as follows:

3 ~~43-43B-3. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
4 ~~the value of the use, alteration, destruction, access or disclosure is one thousand dollars or less~~
5 ~~is guilty~~ Violations of the provisions of § 43-43B-1 are punishable as follows:

6 (1) For a violation of subdivision (1), a Class 1 misdemeanor;

7 (2) For a violation of subdivision (2) or (3), a Class 1 misdemeanor;

8 (3) For a violation of subdivision (4), a Class 6 felony;

9 (4) For a violation of subdivision (5) or (6), a Class 5 felony;

10 (5) For a violation of subdivision (8) or (9), a Class 4 felony;

11 (6) For a violation of subdivision (7), a Class 6 felony.

12 However, a violation of subdivision (7), in which the value of the money, property, or
13 services obtained is more than one thousand dollars, is punishable as a Class 4 felony.

14 Section 4. That § 43-43B-4 be repealed.

15 ~~43-43B-4. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
16 ~~the value of the use, alteration, destruction, access or disclosure is more than one thousand~~
17 ~~dollars is guilty of a Class 6 felony.~~

18 Section 5. That § 43-43B-5 be repealed.

19 ~~43-43B-5. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
20 ~~the money, property or services obtained is one thousand dollars or less is guilty of a Class 1~~
21 ~~misdemeanor.~~

22 Section 6. That § 43-43B-6 be repealed.

23 ~~43-43B-6. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
24 ~~the money, property or services obtained is more than one thousand dollars shall be guilty of a~~

1 ~~Class 4 felony.~~