



AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend title 18, United States Code, to protect Americans from cybercrime.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 754

AMENDMENT N^o 2626

By Whitehouse

To: _____

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Page(s)

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t cybersecurity

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WHITEHOUSE

Viz:

- 1 At the end, add the following:
- 2 **SEC. ____ . STOPPING THE SALE OF AMERICANS' FINANCIAL**
- 3 **INFORMATION.**
- 4 Section 1029(h) of title 18, United States Code, is
- 5 amended by striking "if—" and all that follows through
- 6 "therefrom." and inserting "if the offense involves an ac-
- 7 cess device issued, owned, managed, or controlled by a fi-
- 8 nancial institution, account issuer, credit card system
- 9 member, or other entity organized under the laws of the
- 10 United States, or any State, the District of Columbia, or
- 11 other Territory of the United States."

1 **SEC. ____ . SHUTTING DOWN BOTNETS.**

2 (a) AMENDMENT.—Section 1345 of title 18, United
3 States Code, is amended—

4 (1) in the heading, by inserting “**and abuse**”
5 after “**fraud**”;

6 (2) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (B), by striking
9 “or” at the end;

10 (ii) in subparagraph (C), by inserting
11 “or” after the semicolon; and

12 (iii) by inserting after subparagraph
13 (C) the following:

14 “(D) violating or about to violate paragraph
15 (1), (4), (5), or (7) of section 1030(a) where such
16 conduct would affect 100 or more protected com-
17 puters (as defined in section 1030) during any 1-
18 year period, including by denying access to or oper-
19 ation of the computers, installing malicious software
20 on the computers, or using the computers without
21 authorization;” and

22 (B) in paragraph (2), by inserting “, a vio-
23 lation described in subsection (a)(1)(D),” before
24 “or a Federal”; and

25 (3) by adding at the end the following:

1 “(c) A restraining order, prohibition, or other action
2 described in subsection (b), if issued in circumstances de-
3 scribed in subsection (a)(1)(D), may, upon application of
4 the Attorney General—

5 “(1) specify that no cause of action shall lie in
6 any court against a person for complying with the
7 restraining order, prohibition, or other action; and

8 “(2) provide that the United States shall pay to
9 such person a fee for reimbursement for such costs
10 as are reasonably necessary and which have been di-
11 rectly incurred in complying with the restraining
12 order, prohibition, or other action.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 The table of section for chapter 63 is amended by striking
15 the item relating to section 1345 and inserting the fol-
16 lowing:

“1345. Injunctions against fraud and abuse.”.

17 **SEC. ____ . AGGRAVATED DAMAGE TO A CRITICAL INFRA-**
18 **STRUCTURE COMPUTER.**

19 (a) IN GENERAL.—Chapter 47 of title 18, United
20 States Code, is amended by inserting after section 1030
21 the following:

22 **“§ 1030A. Aggravated damage to a critical infrastruc-**
23 **ture computer**

24 “(a) OFFENSE.—It shall be unlawful, during and in
25 relation to a felony violation of section 1030, to knowingly

1 cause or attempt to cause damage to a critical infrastruc-
2 ture computer, if such damage results in (or, in the case
3 of an attempted offense, would, if completed have resulted
4 in) the substantial impairment—

5 “(1) of the operation of the critical infrastruc-
6 ture computer; or

7 “(2) of the critical infrastructure associated
8 with such computer.

9 “(b) PENALTY.—Any person who violates subsection
10 (a) shall, in addition to the term of punishment provided
11 for the felony violation of section 1030, be fined under
12 this title, imprisoned for not more than 20 years, or both.

13 “(c) CONSECUTIVE SENTENCE.—Notwithstanding
14 any other provision of law—

15 “(1) a court shall not place any person con-
16 victed of a violation of this section on probation;

17 “(2) except as provided in paragraph (4), no
18 term of imprisonment imposed on a person under
19 this section shall run concurrently with any term of
20 imprisonment imposed on the person under any
21 other provision of law, including any term of impris-
22 onment imposed for the felony violation of section
23 1030;

24 “(3) in determining any term of imprisonment
25 to be imposed for the felony violation of section

1 1030, a court shall not in any way reduce the term
2 to be imposed for such violation to compensate for,
3 or otherwise take into account, any separate term of
4 imprisonment imposed or to be imposed for a viola-
5 tion of this section; and

6 “(4) a term of imprisonment imposed on a per-
7 son for a violation of this section may, in the discre-
8 tion of the court, run concurrently, in whole or in
9 part, only with another term of imprisonment that
10 is imposed by the court at the same time on that
11 person for an additional violation of this section, if
12 such discretion shall be exercised in accordance with
13 any applicable guidelines and policy statements
14 issued by the United States Sentencing Commission
15 pursuant to section 994 of title 28.

16 “(d) DEFINITIONS.—In this section

17 “(1) the terms ‘computer’ and ‘damage’ have
18 the meanings given the terms in section 1030; and

19 “(2) the term ‘critical infrastructure’ has the
20 meaning given the term in section 1016(e) of the
21 USA PATRIOT Act (42 U.S.C. 5195e(e)).”.

22 (b) TABLE OF SECTIONS.—The table of sections for
23 chapter 47 of title 18, United States Code, is amended
24 by inserting after the item relating to section 1030 the
25 following:

“1030A. Aggravated damage to a critical infrastructure computer.”.

1 **SEC. ____ . STOPPING TRAFFICKING IN BOTNETS.**

2 (a) IN GENERAL.—Section 1030 of title 18, United
3 States Code, is amended—

4 (1) in subsection (a), by striking paragraph (6)
5 and inserting the following:

6 “(6) knowing such conduct to be wrongful, in-
7 tentiously traffics in any password or similar infor-
8 mation, or any other means of access, further know-
9 ing or having reason to know that a protected com-
10 puter would be accessed or damaged without author-
11 ization in a manner prohibited by this section as the
12 result of such trafficking;”;

13 (2) in subsection (c)—

14 (A) in paragraph (2), by striking “, (a)(3),
15 or (a)(6)” each place it appears and inserting
16 “or (a)(3)”; and

17 (B) in paragraph (4)—

18 (i) in subparagraph (C)(i), by striking
19 “or an attempt to commit an offense”; and

20 (ii) in subparagraph (D), by striking
21 clause (ii) and inserting the following:

22 “(ii) an offense, or an attempt to commit
23 an offense, under subsection (a)(6);”;

24 (3) in subsection (g), in the first sentence, by
25 inserting “, except for a violation of subsection
26 (a)(6),” after “of this section”.