1   A bill to be entitled

2   An act relating to electronic commerce; providing a

3   directive to the Division of Law Revision and

4   Information; creating the "Computer Abuse and Data

5   Recovery Act"; creating s. 668.801, F.S.; providing a

6   statement of purpose; creating s. 668.802, F.S.;

7   defining terms; creating s. 668.803, F.S.; prohibiting

8   a person from intentionally committing specified acts

9   without authorization with respect to a protected

10   computer; providing penalties for a violation;

11   creating s. 668.804, F.S.; specifying remedies for

12   civil actions brought by persons affected by a

13   violation; providing that specified criminal judgments

14   or decrees against a defendant act as estoppel as to

15   certain matters in specified civil actions; providing

16   that specified civil actions must be filed within

17   certain periods of time; creating s. 668.805, F.S.;

18   providing that the act does not prohibit specified

19   activity by certain state, federal, and foreign law

20   enforcement agencies, regulatory agencies, and

21   political subdivisions; providing an effective date.

22

23   Be It Enacted by the Legislature of the State of Florida:

24

25   Section 1.   The Division of Law Revision and Information is

26   directed to create part V of chapter 668, Florida Statutes,

27 consisting of ss. 668.801-668.805, Florida Statutes, to be

28 entitled the "Computer Abuse and Data Recovery Act."

29   Section 2. Section 668.801, Florida Statutes, is created

30 to read:

31   668.801 Purpose.—This part shall be construed liberally

32 to:

33   (1) Safeguard an owner, operator, or lessee of a protected

34 computer used in the operation of a business from harm or loss

35 caused by unauthorized access to such computer.

36   (2) Safeguard an owner of information stored in a

37 protected computer used in the operation of a business from harm

38 or loss caused by unauthorized access to such computer.

39   Section 3. Section 668.802, Florida Statutes, is created

40 to read:

41   668.802 Definitions.—As used in this part, the term:

42   (1) "Business" means any trade or business regardless of

43 its for-profit or not-for-profit status.

44   (2) "Computer" means an electronic, magnetic, optical,

45 electrochemical, or other high-speed data processing device that

46 performs logical, arithmetic, or storage functions and includes

47 any data storage facility, data storage device, or

48 communications facility directly related to or which operates in

49 conjunction with the device.

50   (3) "Harm" means any impairment to the integrity, access,

51 or availability of data, programs, systems, or information.

52   (4) "Loss" means any of the following:

53   (a) Any reasonable cost incurred by the owner, operator,
54 or lessee of a protected computer or the owner of stored
55 information, including the reasonable cost of conducting a
56 damage assessment for harm associated with the violation and the
57 reasonable cost for remediation efforts, such as restoring the
58 data, programs, systems, or information to the condition it was
59 in before the violation.
60   (b) Economic damages.
61   (c) Lost profits.
62   (d) Consequential damages including the interruption of
63 service.
64   (e) Profits earned by a violator as a result of the
65 violation.
66   (5) "Protected computer" means a computer that is used in
67 connection with the operation of a business and stores
68 information, programs, or code in connection with the operation
69 of the business in which the stored information, programs, or
70 code can only be accessed by employing a technological access
71 barrier.
72   (6) "Technological access barrier" means a password,
73 security code, token, key fob, access device, or similar
74 measure.
75   (7) "Traffic" means to sell, purchase, or deliver.
76   (8) "Without authorization" means circumvention of a
77 technological access barrier on a protected computer without the
78 express or implied permission of the owner, operator, or lessee

79 of the computer or the express or implied permission of the

80 owner of information stored in the protected computer, but the

81 term does not include circumventing a technological measure that

82 does not effectively control access to the protected computer or

83 the information stored in the protected computer.

84   Section 4. Section 668.803, Florida Statutes, is created

85 to read:

86   668.803 Prohibited acts.—A person who knowingly and with

87 intent to cause harm or loss:

88   (1) Obtains information from a protected computer without

89 authorization and, as a result, causes harm or loss;

90   (2) Causes the transmission of a program, code, or command

91 from a protected computer without authorization and, as a result

92 of the transmission, causes harm or loss; or

93   (3) Traffics in any technological access barrier through

94 which access to a protected computer may be obtained without

95 authorization,

96

97 is liable to the extent provided in s. 668.804 in a civil action

98 to the owner, operator, or lessee of the protected computer, or

99 the owner of information stored in the protected computer who

100 uses the information in connection with the operation of a

101 business.

102   Section 5. Section 668.804, Florida Statutes, is created

103 to read:

104   668.804 Remedies.—

105   (1) A person who brings a civil action for a violation
106 under s. 668.803 may:
107   (a) Recover actual damages, including the person's lost
108 profits and economic damages.
109   (b) Recover the violator's profits that are not included
110 in the computation of actual damages under paragraph (a).
111   (c) Obtain injunctive or other equitable relief from the
112 court to prevent a future violation of s. 668.803.
113   (d) Recover the misappropriated information and all copies
114 of the misappropriated information that are subject to the
115 violation.
116   (2) A court shall award reasonable attorney fees to the
117 prevailing party in any action arising under this part.
118   (3) The remedies available for a violation of s. 668.803
119 are in addition to remedies otherwise available for the same
120 conduct under federal or state law.
121   (4) A final judgment or decree in favor of the state in
122 any criminal proceeding under chapter 815 shall estop the
123 defendant in any subsequent action brought pursuant to s.
124 668.803 as to all matters as to which the judgment or decree
125 would be an estoppel as if the plaintiff had been a party in the
126 previous criminal action.
127   (5) A civil action filed under s. 668.803 must be
128 commenced within 3 years after the violation occurred or within
129 3 years after the violation was discovered or should have been
130 discovered with due diligence.

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131   Section 6. Section 668.805, Florida Statutes, is created
132 to read:
133   668.805 Exclusions.—This part does not prohibit any
134 lawfully authorized investigative, protective, or intelligence
135 activity of any law enforcement agency, regulatory agency, or
136 political subdivision of this state, any other state, the United
137 States, or any foreign country.
138   Section 7. This act shall take effect October 1, 2015.

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