

SENATE BILL NO. 376—SENATORS CEGAVSKE; BREEDEN, BROWER, GUSTAVSON, HALSETH, HARDY, KIHUEN, LEE, MANENDO, MCGINNESS, PARKS, RHOADS, ROBERSON, SCHNEIDER AND SETTELMAYER

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Increases the penalty for certain technological crimes. (BDR 15-1000)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to crimes; increasing the penalty for certain technological crimes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law makes it a misdemeanor to commit certain acts that: (1) interfere
2 with or deny access to or use of a computer, system or network; and (2) relate to the
3 use or access of a computer, system, network, telecommunications device,
4 telecommunications service or information service. (NRS 205.477) Under existing
5 law, a misdemeanor is punishable by imprisonment in the county jail for a term of
6 not more than 6 months, or a fine of up to \$1,000, or both. (NRS 193.150) This bill
7 increases the penalty for engaging in such acts from a misdemeanor to a category E
8 felony which is punishable by imprisonment in the state prison for a minimum term
9 of not less than 1 year and a maximum term of not more than 4 years and the court
10 may also impose a fine of not more than \$5,000. For this category of felony, the
11 court is required to grant probation except in certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 205.477 is hereby amended to read as follows:
2 205.477 1. Except as otherwise provided in subsections 3 and
3 4, a person who knowingly, willfully and without authorization
4 interferes with, denies or causes the denial of access to or use of a
5 computer, system or network to a person who has the duty and right



1 to use it is guilty of a ~~felony~~ *category E felony and shall*
2 *be punished as provided in NRS 193.130.*

3 2. Except as otherwise provided in subsections 3 and 4, a
4 person who knowingly, willfully and without authorization uses,
5 causes the use of, accesses, attempts to gain access to or causes
6 access to be gained to a computer, system, network,
7 telecommunications device, telecommunications service or
8 information service is guilty of a ~~felony~~ *category E felony*
9 *and shall be punished as provided in NRS 193.130.*

10 3. If the violation of any provision of this section:

11 (a) Was committed to devise or execute a scheme to defraud or
12 illegally obtain property;

13 (b) Caused *or attempted to cause* response costs, loss, injury or
14 other damage in excess of \$500; or

15 (c) Caused an interruption or impairment of a public service,
16 including, without limitation, a governmental operation, a system of
17 public communication or transportation or a supply of water, gas or
18 electricity,

19 ➔ the person is guilty of a category C felony and shall be punished
20 as provided in NRS 193.130, and may be further punished by a fine
21 of not more than \$100,000. In addition to any other penalty, the
22 court shall order the person to pay restitution.

23 4. It is an affirmative defense to a charge made pursuant to this
24 section that at the time of the alleged offense the defendant
25 reasonably believed that:

26 (a) The defendant was authorized to use or access the computer,
27 system, network, telecommunications device, telecommunications
28 service or information service and such use or access by the
29 defendant was within the scope of that authorization; or

30 (b) The owner or other person authorized to give consent would
31 authorize the defendant to use or access the computer, system,
32 network, telecommunications device, telecommunications service or
33 information service.

34 5. A defendant who intends to offer an affirmative defense
35 described in subsection 4 at a trial or preliminary hearing must, not
36 less than 14 days before the trial or hearing or at such other time as
37 the court may direct, file and serve on the prosecuting attorney a
38 written notice of that intent.

39 **Sec. 2.** This act becomes effective upon passage and approval.

