1   A bill to be entitled

2   An act relating to data theft; amending s. 815.04, F.S.;

3   providing that the knowing or negligent transfer of data

4   from one computer to another without the written consent

5   of the owner in the course of providing computer

6   maintenance or support is an offense against intellectual

7   property, a third-degree felony; defining the term

8   "negligently" for purposes of such offense; providing for

9   civil liability of the person performing the maintenance

10   or support and his or her employer; providing an effective

11   date.

12

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

14

15   Section 1. Section 815.04, Florida Statutes, is amended to

16   read:

17   815.04 Offenses against intellectual property; public

18   records exemption.--

19   (1)(a) Whoever willfully, knowingly, and without

20   authorization modifies data, programs, or supporting

21   documentation residing or existing internal or external to a

22   computer, computer system, or computer network commits an

23   offense against intellectual property.

24   (b)(2) Whoever willfully, knowingly, and without

25   authorization destroys data, programs, or supporting

26   documentation residing or existing internal or external to a

27   computer, computer system, or computer network commits an

28   offense against intellectual property.

29   (2)(a) Whoever, in the course of providing computer

30   maintenance or support to a customer, knowingly or negligently

31   transfers personal data from one computer to another without the

32   express written permission of the data owner commits an offense

33   against intellectual property. In addition to criminal

34   penalties, the person performing the maintenance or support and

35   his or her employer are subject to civil liability for a

36   violation of this subsection. An injured customer has a cause of

37   action for damages as provided in s. 772.104.

38   (b) For purposes of this subsection, the term

39   "negligently" means transferring data without taking the proper

40   precautions to ensure that an unauthorized transfer does not

41   occur or failing to take appropriate measures following

42   maintenance or support to ensure that an unauthorized data

43   transfer does not occur.

44   (3)(a) Data, programs, or supporting documentation which

45   is a trade secret as defined in s. 812.081 which resides or

46   exists internal or external to a computer, computer system, or

47   computer network which is held by an agency as defined in

48   chapter 119 is confidential and exempt from the provisions of s.

49   119.07(1) and s. 24(a), Art. I of the State Constitution.

50   (b) Whoever willfully, knowingly, and without

51   authorization discloses or takes data, programs, or supporting

52   documentation which is a trade secret as defined in s. 812.081

53   or is confidential as provided by law residing or existing

54   internal or external to a computer, computer system, or computer

55   network commits an offense against intellectual property.

56   (4)(a) Except as otherwise provided in this subsection, an

57 offense against intellectual property is a felony of the third

58 degree, punishable as provided in s. 775.082, s. 775.083, or s.

59 775.084.

60   (b) If the offense is committed for the purpose of

61 devising or executing any scheme or artifice to defraud or to

62 obtain any property, ~~then~~ the offender <u>commits</u> ~~is guilty of~~ a

63 felony of the second degree, punishable as provided in s.

64 775.082, s. 775.083, or s. 775.084.

65   Section 2. This act shall take effect July 1, 2008.

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