

Amendment No. 732

Assembly Amendment to Senate Bill No. 376 First Reprint (BDR 15-1000)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DP/KEL



Date: 5/24/2011

S.B. No. 376—Increases the penalty for certain technological crimes.
(BDR 15-1000)



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

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:

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

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

Section 1. NRS 205.477 is hereby amended to read as follows:

205.477 1. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, ***maliciously*** and without authorization interferes with, denies or causes the denial of access to or use of a computer, system or network to a person who has the duty and right to use it is guilty of a **gross misdemeanor**. ~~category E felony and shall be punished as provided in NRS 193.130.~~

2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, ***maliciously*** and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or

information service is guilty of a ~~gross misdemeanor, category E felony and shall be punished as provided in NRS 193.130.~~ gross misdemeanor.

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

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

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

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

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

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

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

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

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

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