S T A T E O F N E W Y O R K

5072

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the definition of without authorization when it pertains to offenses involving computers and making certain other technical changes

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

Section 1. Subdivision 8 of section 156.00 of the penal law, as added by chapter 558 of the laws of 2006, is amended to read as follows:

8. "Without authorization" means to use or to access a computer, computer service or computer network without the [permission] AUTHORIZATION of the owner or lessor or someone licensed or privileged by the owner or lessor where such person knew that his or her use or access was without [permission or after actual notice to such person that such use or access was without permission] AUTHORIZATION. It shall also mean the access of a computer service by a person without [permission] AUTHORIZATION where such person knew that such access was without [permission] AUTHORIZATION or after actual notice to such person, that such access was without [permission] AUTHORIZATION.

Proof that such person used or accessed a computer, computer service or computer network through the [knowing] use of a set of instructions, code or computer program [that bypasses, defrauds] KNOWINGLY TO BYPASS, DEFRAUD or otherwise [circumvents] CIRCUMVENT a security measure installed or used with the user's authorization on the computer, computer service or computer network shall be presumptive evidence that such person used or accessed such computer, computer service or computer network without authorization.

THIS TERM SHALL NOT APPLY TO AUTOMATED SOFTWARE THAT SEARCHES SERVERS ON THE INTERNET EXPOSING UNSECURED SERVICES TO LOCATE AND INDEX ONLINE CONTENT TO FACILITATE THE OPERATION OF ANY INFORMATION LOCATION TOOL, SUCH AS A DIRECTORY, INDEX, REFERENCE, POINTER, HYPERTEXT LINK OR SIMI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD08671-01-9

LAR CURRENT OR FUTURE TECHNOLOGY, SO LONG AS SUCH AUTOMATED SOFTWARE DOES NOT INTENTIONALLY ALTER IN ANY MANNER OR DESTROY COMPUTER DATA OR A COMPUTER PROGRAM OF ANOTHER PERSON.

S 2. Subdivision 2 of section 156.10 of the penal law, as amended by chapter 558 of the laws of 2006, is amended to read as follows:

2. he or she thereby knowingly [gains access to] OBTAINS computer material.

S 3. This act shall take effect immediately.