

# H.B. 185

## UTAH COMPUTER CRIMES ACT AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 1

JANUARY 24, 2005 5:58 PM

Representative **Bradley M. Daw** proposes the following amendments:

1. *Page 1, Lines 12 through 15:*

12 This bill:  
13 ▶ amends the definition of "computer network" in the Utah Computer Crimes Act to  
14 include wireless networks; ~~{and}~~ =  
clarifies prohibited conduct under the Utah Computer Crimes Act; and  
15 ▶ makes technical changes.

2. *Page 1, Lines 22 through 23:*

22 76-6-702, as last amended by Chapter 300, Laws of Utah 1997  
= 76-6-703, as last amended by Chapter 300, Laws of Utah 1997

3. *Page 2, Lines 35 through 36:*

35 (3) "Computer" means any electronic device or communication facility [~~with data~~  
36 ~~processing ability~~] that stores, retrieves, ~~{or}~~ processes , or transmits data.

4. *Page 2, Line 52:*

52 others without the owner's or custodian's permission.  
(8) "Information" does not include information obtained:  
(a) through use of:  
(i) an electronic product identification or tracking system; or  
(ii) other technology used by a retailer to identify, track, or price goods held for sale; and  
(b) by a retailer through the use of equipment located entirely within the retailer's retail  
location.

5. *Page 2, Line 53:*

53 ~~{(8)}~~ (9) "License or entitlement" includes:

6. *Page 3, Line 62:*

62 ~~{(9)}~~ (10) "Security system" means a computer, computer system, network, or computer

7. *Page 3, Line 66:*

66            ~~{(10)}~~    (11)    "Services" include~~[-, but are not limited to,]~~ computer time, data manipulation, and

8.    *Page 3, Line 68:*

68            ~~{(11)}~~    (12)    "Financial instrument" includes~~[-, but is not limited to,]~~ any check, draft, money

9.    *Page 3, Line 71:*

71            ~~{(12)}~~    (13)    "Software" or "program" means a series of instructions or statements in a form

10. *Page 3, Line 74:*

74    ~~limited to,]~~ system control programs, application programs, or copies of any of them.

**Section 2. Section 76-6-703 is amended to read:**

**76-6-703. Computer crimes and penalties.**

(1) A person who without authorization gains or attempts to gain access to and alters, damages, destroys, discloses, or modifies any computer, computer network, computer property, computer system, computer program, computer data or software, and thereby causes damage to another, or obtains money, property, information, or a benefit for any person without legal right, is guilty of:

(a) a class B misdemeanor when:

(i) the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is less than \$300; or

(ii) the information obtained is not confidential;

(b) a class A misdemeanor when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$300 but is less than \$1,000;

(c) a third degree felony when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$1,000 but is less than \$5,000;

(d) a second degree felony when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$5,000; and

(e) a third degree felony when:

(i) the property or benefit obtained or sought to be obtained is a license or entitlement;

(ii) the damage is to the license or entitlement of another person; or

(iii) the information obtained is confidential; or

(iv) in gaining access the person breaches or breaks through a security system.

(2)    ~~{A}~~    (a) Except as provided in Subsection (2)(b), a person who intentionally or knowingly and without authorization gains or attempts to gain access to a computer, computer network, computer property, or computer system under circumstances not otherwise constituting an offense under this section is guilty of a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a retailer that uses an electronic product identification or tracking system, or other technology to identify, track, or price goods held for sale is not guilty of a violation of Subsection (2)(a) if the computer used by the retailer to identify, track, or price goods held

**for sale is located entirely within the retailer's retail location.**

(3) A person who uses or knowingly allows another person to use any computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, services, or other things of value by false pretenses, promises, or representations, is guilty of an offense based on the value of the money, property, services, or things of value, in the degree set forth in Subsection 76-10-1801(1).

(4) A person who intentionally or knowingly and without authorization, interferes with or interrupts computer services to another authorized to receive the services is guilty of a class A misdemeanor.

(5) It is an affirmative defense to Subsections (1) and (2) that a person obtained access or attempted to obtain access in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of a computer, computer network, computer property, computer system whose security the person is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose.