

Computer Contaminants

This Act establishes penalties for introducing computer viruses, computer worms or other damaging programs into computers.

Submitted as:

West Virginia

Enrolled Committee Substitute for SB 153

Status: enacted into law Chapter 57, Laws of 2000.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “The Computer Contaminants Act.”

2

3 Section 2. [*Definitions.*] As used in this Act, unless the context clearly indicates otherwise:

4 (a) “Access” means to instruct, communicate with, store data in, retrieve data from, intercept data from
5 or otherwise make use of any computer, computer network, computer program, computer software, computer
6 data or other computer resources.

7 (b) “Authorization” means the express or implied consent given by a person to another to access or use
8 said person’s computer, computer network, computer program, computer software, computer system, pass-
9 word, identifying code or personal identification number.

10 (c) “Computer” means an electronic, magnetic, optical, electrochemical or other high speed data pro-
11 cessing device performing logical, arithmetic or storage functions and includes any data storage facility or
12 communication facility directly related to or operating in conjunction with such device. The term “computer”
13 includes any connected or directly related device, equipment or facility which enables the computer to store,
14 retrieve or communicate computer programs, computer data or the results of computer operations to or from
15 a person, another computer or another device, but such term does not include an automated typewriter or
16 typesetter, a portable hand-held calculator or other similar device.

17 (d) “Computer contaminant” means any set of computer instructions that are designed to damage or
18 destroy information within a computer, computer system or computer network without the consent or per-
19 mission of the owner of the information. They include, but are not limited to, a group of computer instructions
20 commonly called viruses or worms that are self-replicating or self-propagating and are designed to contami-
21 nate other computer programs or computer data, consume computer resources or damage or destroy the
22 normal operation of the computer.

23 (e) “Computer data” means any representation of knowledge, facts, concepts, instruction or other
24 information computed, classified, processed, transmitted, received, retrieved, originated, stored, manifested,
25 measured, detected, recorded, reproduced, handled or utilized by a computer, computer network, computer
26 program or computer software and may be in any medium, including, but not limited to, computer printouts,
27 microfilm, microfiche, magnetic storage media, optical storage media, punch paper tape or punch cards, or it
28 may be stored internally in read-only memory or random access memory of a computer or any other peripheral
29 device.

30 (f) “Computer network” means a set of connected devices and communication facilities, including
31 more than one computer, with the capability to transmit computer data among them through such communi-
32 cation facilities.

33 (g) “Computer operations” means arithmetic, logical, storage, display, monitoring or retrieval func-
34 tions or any combination thereof and includes, but is not limited to, communication with, storage of data in or
35 to, or retrieval of data from any device and the human manual manipulation of electronic magnetic impulses.

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36 A “computer operation” for a particular computer shall also mean any function for which that computer was designed.

37 (h) “Computer program” means an ordered set of computer data representing instructions or state-
38 ments, in a form readable by a computer, which controls, directs or otherwise influences the functioning of a
39 computer or computer network.

40 (i) “Computer software” means a set of computer programs, procedures and associated documentation
41 concerned with computer data or with the operation of a computer, computer program or computer network.

42 (j) “Computer services” means computer access time, computer data processing or computer data
43 storage and the computer data processed or stored in connection therewith.

44 (k) “Computer supplies” means punch cards, paper tape, magnetic tape, magnetic disks or diskettes,
45 optical disks or diskettes, disk or diskette packs, paper, microfilm and any other tangible input, output or
46 storage medium used in connection with a computer, computer network, computer data, computer software
47 or computer program.

48 (l) “Computer resources” includes, but is not limited to, information retrieval; computer data process-
49 ing, transmission and storage; and any other functions performed, in whole or in part, by the use of a computer,
50 computer network, computer software or computer program.

51 (m) “Owner” means any person who owns or leases or is a licensee of a computer, computer network,
52 computer data, computer program, computer software, computer resources or computer supplies.

53 (n) “Person” means any natural person, general partnership, limited partnership, trust, association,
54 corporation, joint venture or any state, county or municipal government and any subdivision, branch, depart-
55 ment or agency thereof.

56 (o) “Property” includes:

57 (1) Real property;

58 (2) Computers and computer networks;

59 (3) Financial instruments, computer data, computer programs, computer software and all other
60 personal property regardless of whether they are:

61 (i) Tangible or intangible;

62 (ii) In a format readable by humans or by a computer;

63 (iii) In transit between computers or within a computer network or between any devices
64 which comprise a computer; or

65 (iv) Located on any paper or in any device on which it is stored by a computer or by a human; and

66 (4) Computer services.

67 (p) “Value” means having any potential to provide any direct or indirect gain or advantage to any person.

68 (q) “Financial instrument” includes, but is not limited to, any check, draft, warrant, money order, note,
69 certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mecha-
70 nism, marketable security or any computerized representation thereof.

71 (r) “Value of property or computer services” shall be:

72 (1) The market value of the property or computer services at the time of a violation of this Act; or

73 (2) If the property or computer services are unrecoverable, damaged or destroyed as a result of a
74 violation of this Act, the cost of reproducing or replacing the property or computer services at the time of the violation.

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76 Section 3. [*Alteration, Destruction, Etc., of Computer Equipment.*]

77 (a) Misdemeanor offenses. -- Any person who knowingly, willfully and without authorization, directly
78 or indirectly, tampers with, deletes, alters, damages or destroys or attempts to tamper with, delete, alter, dam-
79 age or destroy any computer, computer network, computer software, computer resources, computer program
80 or computer data or who knowingly introduces, directly or indirectly, a computer contaminant into any com-
81 puter, computer program or computer network which results in a loss of value of property or computer ser-
82 vices up to [one thousand (1,000)] dollars, is guilty of a [misdemeanor] and, upon conviction thereof, shall be
83 fined not more than [one thousand (1,000)] dollars or confined in the county or regional jail not more than [six
84 (6)] months, or both.

85 (b) Felony offenses. -- Any person who knowingly, willfully and without authorization, directly or indi-

86 rectly, damages or destroys or attempts to damage or destroy any computer, computer network, computer
87 software, computer resources, computer program or computer data by knowingly introducing, directly or
88 indirectly, a computer contaminant into any computer, computer program or computer network which re-
89 sults in a loss of value of property or computer services more than [one thousand (1,000)] dollars is guilty of a
90 [felony] and, upon conviction thereof, shall be fined not less than [two hundred (200)] dollars and not more
91 than [ten thousand (10,000)] dollars or confined in a state correctional facility not more than [ten (10)] years,
92 or both, or, in the discretion of the court, be fined not less than [two hundred (200)] nor more than [one
93 thousand (1,000)] dollars and confined in the county or regional jail not more than [one (1)] year.

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Section 4. [*Severability.*] [Insert severability clause.]

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Section 5. [*Repealer.*] [Insert repealer clause.]

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Section 6. [*Effective Date.*] [Insert effective date.]

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