

Computer Abuse and Data Recovery Act (“CADRA”)(Aug25)

Electronic Commerce

Part V: Computer Abuse and Data Recovery Act

668.801 Short Title

This part may be cited as the "Computer Abuse and Data Recovery Act."

668.802 Prohibited Acts.

(a) Whoever --

(1) having knowingly accessed a protected computer without authorization or having knowingly exceeded authorized access, and

(A) by means of such conduct willfully obtained information from the protected computer, or

(B) willfully communicated, delivered or transmitted information from the protected computer to any person not entitled to receive it, or

(C) willfully retains information from the protected computer and fails to deliver all copies of the same upon demand to the rightful owner of such information;

(2) while employed by or acting as an independent contractor for the rightful owner of information, knowingly accessed a protected computer, obtained the information from the protected computer, and

(A) knowingly fails to return the information upon demand from the rightful owner of the information, without legal justification, after employment or termination as an independent contractor; or

(B) knowingly fails to return the information, without legal justification, upon demand from the rightful owner of the information during his or her employment;

(3) with intent to defraud, accessed a protected computer without authorization, or exceeded authorized access, and

(A) obtained information from the protected computer or

(B) communicated, delivered or transmitted information from the protected computer to any person not entitled to receive it;

(4) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage or loss to a protected computer;

(5) knowingly accesses a protected computer without authorization, and as a result of such conduct, intentionally causes damage or loss;

(6) knowingly traffics in any password or similar information through which access to a protected computer may be obtained or exceeded; or

(7) knowingly traffics in any password or similar information through which unauthorized

access to a protected computer may be obtained or authorized access may be exceeded;

shall be liable in a civil action by the rightful owner of the information or the owner, operator or leasee of the protected computer.

668.803 Remedies.

(a) The following persons who have suffered loss or damage may bring a civil action against a person who violates section 668.802:

(1) a person who is the rightful owner of information and who uses the information as part of his or her business; or

(2) a person who is the owner, operator or leasee of a protected computer used in his or her business.

(b) A person bringing an action under section 668.803(a) for a violation may:

(1) recover his or her actual damages and losses;

(2) recover the violator's profits;

(3) seek injunctive or other equitable relief from the court to recover the original and all copies of the information which is subject to the violation; and

(4) seek injunctive or other equitable relief against a threatened loss or damage.

(c) In any litigation resulting from an act or practice involving a violation, the prevailing party, may be awarded, in the court's discretion, his or her reasonable attorney's fees and costs from the nonprevailing party.

(d) The remedies available for a violation of section 668.802 are in addition to remedies otherwise available for the same conduct under federal or state law.

(e) A final judgment or decree rendered in favor of the state in any criminal proceeding concerning the conduct of the defendant which forms the basis for any criminal proceeding under chapter 815, shall estop the defendant in any action brought pursuant to section 668.802(a) as to all matters as to which such judgment or decree would be an estoppel as if the plaintiff had been a party in the criminal action.

(f) A civil action filed under this section must be brought within 3 years after the violation occurred or was discovered.

668.804 Definitions

(a) As used in this section --

(1) the term "computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes

any data storage facility, data storage device or communications facility directly related to or operating in conjunction with such device;

(2) the term "protected computer" means a computer storing information covered by this chapter.

(3) the terms "exceeded" or "exceeds" authorized access mean to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter. In determining whether a person charged with a violation of section 668.802 exceeds or has exceeded authorized access, or acted without authorization or obtained unauthorized access, a court may consider factors such as, but not limited to:

- (A) whether that person had a bad faith intent to profit from his or her acts;
- (B) whether that person was engaging or threatened to engage in malicious behavior;
- (C) whether that person was acting for the benefit of another;
- (D) whether that person violated a written agreement between the parties the performance of which required access to the protected computer or use of business information;
- (E) whether that person violated a written policy of an employer;
- (F) whether that person violated a fiduciary duty owed to the person bringing the action;
- (G) whether the protected computer subject to the violation was protected by password which was not assigned to that person; and
- (H) whether the business information subject to the violation was protected by password which was not assigned to that person.

(4) the term "damage" means any impairment to the integrity, access or availability of data, a program, a system, or information;

(5) the term "loss" means any reasonable cost to any person, including the reasonable cost of responding to the violation, conducting a damage assessment, and remediation efforts including restoring the data, program, system, or information to its condition prior to the violation, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service, and profits derived from a violation section 668.802(a); and

(6) the term "person" means any individual, firm, corporation, charitable organization, educational institution, or legal or other entity.

668.805 Exclusions.

(a) This part does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the State of Florida, a State, or a political subdivision of the State.