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DEPUTIES

Sacramento, California
August 31, 1984

Honorable George Deukmejian
Governor of California
Sacramento, CA

Assembly Bill No. 2551

Dear Governor Deukmejian:

Pursuant to your request we have reviewed the
above-numbered bill authored by Assembly Member Farr
and, in our opinion, the title and form are sufficient and
the bill, if chaptered, will be constitutional. The digest
on the printed bill as adopted correctly reflects the views
of this office.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By *John Corzine*
John Corzine
Principal Deputy

JC:TR

Two copies to Honorable Sam Farr
pursuant to Joint Rule 34,

MEMBERS
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Vice Chairman
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ASSEMBLY COMMITTEE ON ECONOMIC DEVELOPMENT AND NEW TECHNOLOGIES

SAM FARR
Chairman

August 29, 1984

Honorable George Deukmejian
Governor
State of California
State Capitol
Sacramento, California 95814

Dear Governor Deukmejian:

This letter is to respectfully request you to sign Assembly Bill 2551, relating to penalties for computer trespassing, which was recently sent to enrollment.

Assembly Bill 2551 would close a current loophole in the Penal Code which allows individuals to use home computers to legally browse through confidential computer data bases, so long as this "computer trespassing" is non-malicious and causes no damages.

Assembly Bill 1551 would close this loophole in a way supportive of computer network owners by:

- Establishing as a misdemeanor the intentional unauthorized entry into any computer system with the knowledge that the entry was not authorized.
- Establishing a flexible penalty schedule that prosecutors can realistically apply to different levels of offense.
- Including in the definition of injury any expenditure reasonably and necessarily incurred by the computer system owner to determine if the system has been damaged by the access.
- Specifically authorizing civil actions by computer system owners to recover compensatory damages, including attorneys' fees.

This measure is supported by many groups including:

State Attorney General (Sponsor)
California District Attorney's Association
California Chamber of Commerce
California Correctional Peace Officers Association
California Manufacturers Association
Bank of America
Blue Cross
IBM
TRW, Inc.
Hewlett-Packard
Ford Motor Company
California Railroad Association
Bank of California
Syntex USA
City and County of San Francisco

I urge you to sign Assembly Bill 2551.

Sincerely,



SAM FARR
Chairman

SF:jnt

Honorable Sam Farr
Member of the Assembly
State Capitol, Room 3120
Sacramento, CA 95814

DEPARTMENT
Finance

BILL NUMBER
AB 2551

AUTHOR
Farr

DATE LAST AMENDED
August 7, 1984

SUBJECT

This bill would make any unauthorized computer access a public offense. The bill also changes the definition of computer system and prohibits any malicious disruption of computer operations.

SUMMARY OF REASONS FOR SIGNATURE:

Will help protect the confidentiality and integrity of computerized data.

FISCAL SUMMARY--STATE LEVEL

Department/Agency or Revenue Type	Code	RV	(Fiscal Impact by Fiscal Year)							
			(Dollars in Thousands)							
			FC	1983-84	FC	1984-85	FC	1985-86	Code	Fund

None

FISCAL SUMMARY--LOCAL LEVEL

	FC	1983-84	FC	1984-85	FC	1985-86
Reimbursable	--		--		--	
Non-Reimbursable	--		--		--	

ANALYSIS

A. Specific Findings

Under existing law, the malicious access, alteration, deletion, damage, or destruction of a computer system, network, program or data is a public offense and a felony.

This bill would add to that category of offenses the disruption of the operation of a computer system, network, program, or data. The bill would classify specified unauthorized access as a public offense and would express certain legislative findings and intent relating to that offense. The bill would make certain changes in the definition of the term "computer system."

B. Fiscal Analysis

This bill does not impact any State department or program. Any impact on local governments is appropriately addressed by the "crimes and infractions" disclaimer in the bill.

RECOMMENDATION
Sign the bill.

Department Director Date
AUG 31 1984

Principal Analyst	Date	Program Budget Manager	Date	Governor's Office use
(522) J. Apps	8/29	Lonnie Mathis	8/29	Position noted
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	Position approved
				Position disapproved
				By: date:

LP:4325D
ENROLLED BILL REPORT Form DF-44 (Rev 6/83 500 Pk)

ENROLLED BILL REPORT

Business and Transportation Agency

DEPARTMENT Stephen P. Teale Data Center	AUTHOR Assemblyman Farr	BILL NUMBER AB 2551
SUBJECT Computers		

Summary

This bill would establish a range of penalties for those who commit computer crimes and would also attempt to both clarify and add components to the range of penalties.

Sponsor

This legislation is being sponsored by Assemblyman Farr, Chairman of the Assembly Committee of Economic Development and New Technologies.

Impact Assessment

Under existing law, the malicious access, alteration, deletion, damage, or destruction of a computer system, network, program, or data is a public offense and a felony. This bill would add to that category of offenses the disruption of the operation of a computer system, network, program, or data.

This bill would also classify specified unauthorized computer access as a public offense.

The implementation of these changes would have an overall positive effect upon both the public and private data processing community.

Arguments Pro & Con

Teale Data Center is in full support of this bill. The passage of this bill will serve as a deterrent for those who might contemplate committing computer crimes.

Recommendation

Teale Data Center recommends that the Governor sign this bill.

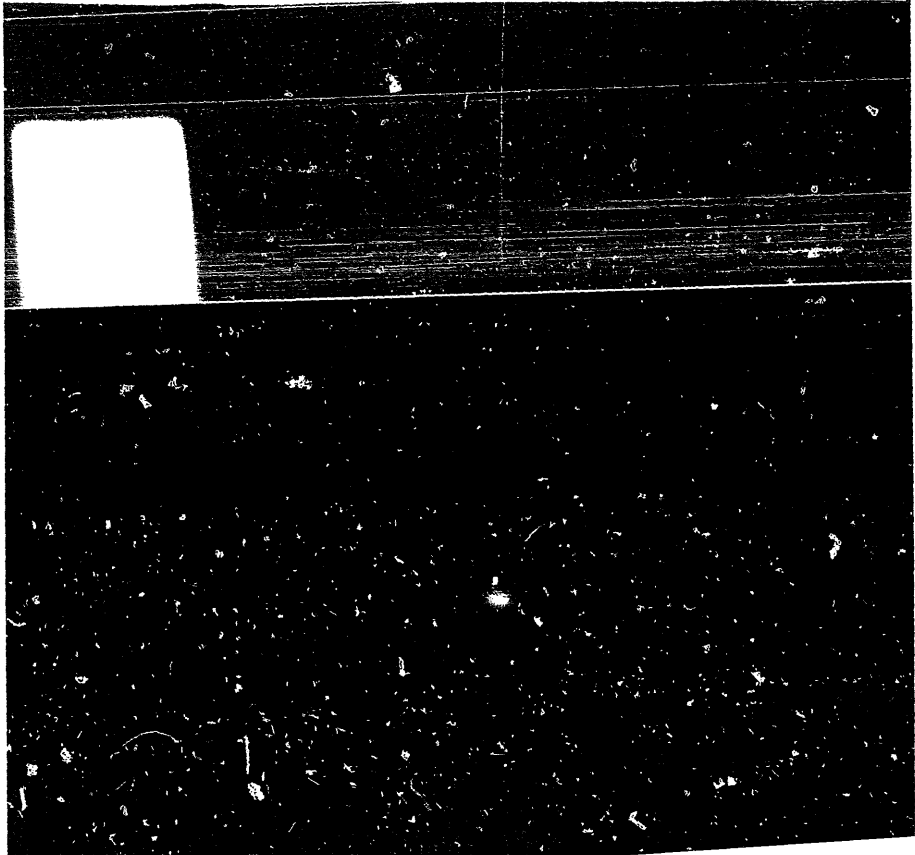
The increasing usage of computers and computer terminals in business and industry, coupled with the proliferation of personal computers have provided the opportunity for widespread computer crime. The passage of this bill will insure generally stiffer and more consistent penalties for those caught.

Veto Message

N/A

RECOMMENDATION

Support SIGN			
Department <i>[Signature]</i>	Date 8/31/84	Agency <i>[Signature]</i>	Date 8-31-84



ENROLLED BILL REPORT

Agency	HEALTH & WELFARE AGENCY		Bill Number	AB 2551
Department, Board or Commission	HEALTH & WELFARE AGENCY DATA CENTER		Author	Farr
BILL SUMMARY:				
<p>AB 2551 has been introduced to amend Section 502 of the Penal Code, relating to computers. Under existing law, the malicious access, alteration, deletion of a computer system, network, program or data is a public offense and a felony.</p> <p>This bill adds to the category of offenses the disruption of the operation of a computer system network, program or data. It classifies "unauthorized access" as a public offense, punishable as specified, depending on whether there is injury, and would express certain legislative findings and intent relating to that offense. (Injury being any deletion, damage or destruction of a computer system or any expenditures incurred by the owner/lessee to verify that a computer system was not damaged by the access.)</p> <p>This bill also provides certain civil remedies to the person who intentionally and without authorization accesses a computer system. This does not apply, however, to the person who accesses the system when acting within the scope of his/her employment. Violations are punishable by a fine and/or imprisonment depending upon injury.</p>				
FISCAL IMPACT:				
There is no fiscal impact to the Data Center.				
VOTE COUNT:				
Criminal Law & Public Safety	Ayes: 6	Noes: 0		
Assembly Floor	Ayes: 78	Noes: 0		
Committee on Judiciary	Ayes: 6	Noes: 0		
Senate Floor	Ayes: 33	Noes: 0		
RECOMMENDATION:				
This bill strengthens the current law, therefore, the Data Center recommends the signing of the bill.				
Recommendation				
SUPPORT				
Department Director	Date	Agency Secretary	Date	
<i>Russell J. Abbott</i>	8/29/84	<i>[Signature]</i>	8/31/84	

SENATE REPUBLICAN CAUCUS
SENATOR JOHN SEYMOUR, Chairman

POSITIONS:

SOURCE: Attorney General.

BILL NUMBER: AB 2551

SUPPORT: California Chamber of Commerce;
California Correctional Peace Officers Assn.;
California Manufacturers Assn.; Blue Cross;
IBM; TRW, Inc.; Hewlett-Packard; Ford Motor
COMPANY.

AUTHOR: Comm.on Econ.
Dev.& N.T.et al
AMENDED COPY: 8/7/84
MAJORITY VOTE

Committee Votes:

Senate Floor Vote:

NAME	DATE	INITIALS
AB 2551	8-5-84	
...

PLACED ON FILE AS
A RESULT OF SENATE
RULE 28.8

Assembly Floor Vote: 78-0, Pg 16674 (6/13/84)

DIGEST

PASSED ASSEMBLY ON CONSEN'

1
2 This bill establishes new criminal penalties for using computer
3 systems under certain circumstances, and also provide certain civil
4 remedies, as specified.

5
6 FISCAL EFFECT

7 Appropriation: No. Fiscal Committee: Yes. Local: Yes.

8
9 The bill would increase General Fund costs to the extent that
10 additional persons are sentenced to state prison. The Department of
11 Corrections estimates that the bill would have a negligible, if any,
12 fiscal impact.

13
14 The new criminal penalties provided by the bill would result in
15 undetermined revenues to local governments and certain state special
16 funds from fines and penalty assessments.

17
18 Mandated Local Program. The bill would result in undetermined local
19 law enforcement and incarceration costs. It contains a crimes and
20 infractions disclaimer.

21
22 COMMENTS

23 Under existing law, any malicious access of a computer system is
24 punishable as a misdemeanor or felony.

25
26 This bill would make any intentional and knowingly unauthorized, but
27 non-malicious, computer access punishable as a public offense. A first
28 offense which did not cause injury, as defined, would be punishable as
29
30
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32 NEXT PAGE

1 an infraction by a \$250 fine. A subsequent offense or any offense
2 causing injury would be punishable as a misdemeanor by a one year
3 county jail term and/or a \$5,000 fine.

4
5 The bill would also provide that a computer owner could recover in an
6 civil action for compensatory damages caused by an unlawful computer
7 access.

8
9 The purpose of this bill is to deter "computer hacking."

10
11 Problem of computer hackers

12 According to proponents, existing law prohibiting malicious (intent to
13 vex, injure, or do an unlawful act) access does not adequately protect
14 against computer hackers who may intentionally and without
15 authorization access a computer system for "the fun of it." Because
16 the act was performed without malice and without any damage or
17 alteration to the computer system or program, these computer hackers
18 are not guilty of any crime.

19
20 The accesses, however, are not always harmless. Proponents assert
21 that the access may invade the confidentiality of stored records or
22 may require the owner to expend significant sums of money to ensure
23 that the records were not tampered with.

24
25 Reason for graduated penalties

26
27 Proponents state that a \$250 infraction fine is an appropriate penalty
28 for a first offense with no injury.

29
30 For purposes of deterrence, however, any subsequent offense would be
31 punishable as a misdemeanor.

32
33 Misdemeanor penalty for injury

34
35 An offense resulting in injury would be punishable by a one year
36 county jail term and for a \$5,000 fine or both.

37
38 Definition of "injury"

39
40 The bill would define injury to include "any . . . damage . . . of a
41 computer system . . . or program, or any expenditure reasonably and
42 necessarily incurred by the business or owner to verify that a
43 computer program . . . or data was not altered, deleted, damaged, or
44 destroyed by the access."

45
46 Proponents assert that computer hacking is a modern and unique crime,
47 that the offense deprives a computer owner of resources whenever, to
48 make his system "whole," he must verify that an unauthorized access
49 has not damaged the program or data, that this deprivation is an
50 injury to the owner, and that, therefore, the definition of injury
51 should include an owner's costs of verifying a program's security
52 after an unauthorized entry.

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NEXT PAGE

1 Scope of employment exception

2
3 This bill would not apply to any person who accessed his or her
4 employer's computer system when acting within the scope of employment.
5 This provision is intended to except the authorized office computer
6 worker who used the computer system for personal reasons in violation
7 of company policy. The exception, however, would not apply to office
8 workers who were not authorized to use the computer.
9

10 Provision of attorney's fees in seeking civil remedy

11
12 The bill would state the right of a computer owner to sue a convicted
13 offender for any "compensatory" damages including reasonable expenses
14 caused by an unlawful access.
15

16 Similar Legislation

17
18 SB 2149 (Doolittle) would also enact criminal penalties to deter
19 computer hackers.
20

21 It provides for a 6 month jail term and/or a \$1,000 fine misdemeanor
22 penalty regardless of whether any damage was done.
23

24 Introduced by Committee on Economic Development and New Technologies
25 (Assembly Members Farr (Chairman), Bader, Baker, Clute, Frazee, Hauser
26 and Killea).
27

28 Assembly Coauthors: Assembly Members Alatorre, Areias, Condit,
29 Cortese, Davis, Katz, Kelley, Konnyu, Molina,
30 Moorhead, O'Connell, and Norman Waters.
31

32 Senate Coauthors: Senators Doolittle, McCorquodale, Petris,
33 Presley, Richardson, Robbins, Seymour, Speraw,
34 Stern, Bill Greene, and Keene.
35

36 NOTE:

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38 See attached Support letters.
39

40 8/15/84:vw:jab
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