



**DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL**

MEMORANDUM

DATE: May 6, 2015

TO: Honorable Floyd Prozanski, Chair
Senate Committee on Judiciary

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 2377 – Making phishing an unlawful trade practice

This testimony is presented in support of HB2377.

BACKGROUND

Phishing is a scam where fraudsters send spam or text messages or create deceptive websites to lure the personal information of victims or install malicious code onto the victim's device. Some phishing emails are deceptively close to legitimate businesses. While anti-phishing laws have been around in other states since the early 2000s, phishing is a constant and growing fraud:

- Spear phishing was termed by the Verizon 2014 Data Breach Investigations Report as the “old faithful” for scammers, saying, “Users will be phished, and they will eventually click; we’ve got the data to prove it.”
- Phishing was the #3 variety of threat actions in 2013, up from #9 previously
- Some phishing has led to “ransomware” – scammers will hold files or intellectual property hostage through encryption and demand payment to unlock the files.
- A phishing campaign has about an 18% chance of getting a click. A phisher will typically send thousands of solicitations.

CONCEPT

23 states have anti-phishing statutes. HB2377 was modeled after Washington, RCW 19.190.080. This change addresses the problem by making phishing a civil violation of the Unlawful Trade Practices Act. The enforcement available would include the ability to send a Civil Investigative Demand to help determine the source of the phishing. The threat of civil penalties may also deter phishing attacks aimed at Oregonians.

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