

SENATE AMENDMENTS TO SENATE BILL 377

By COMMITTEE ON JUDICIARY

April 3

- 1 On page 1 of the printed bill, line 2, delete "163.700" and insert "164.377".
- 2 Delete lines 4 through 28 and insert:
- 3 "**SECTION 1.** ORS 164.377 is amended to read:
- 4 "164.377. (1) As used in this section:
- 5 "(a) To 'access' means to instruct, communicate with, store data in, retrieve data from or oth-
- 6 erwise make use of any resources of a computer, computer system or computer network.
- 7 "(b) 'Computer' means, but is not limited to, an electronic, magnetic, optical electrochemical or
- 8 other high-speed data processing device that performs logical, arithmetic or memory functions by the
- 9 manipulations of electronic, magnetic or optical signals or impulses, and includes the components
- 10 of a computer and all input, output, processing, storage, software or communication facilities that
- 11 are connected or related to such a device in a system or network.
- 12 "(c) 'Computer network' means, but is not limited to, the interconnection of communication lines,
- 13 including microwave or other means of electronic communication, with a computer through remote
- 14 terminals or a complex consisting of two or more interconnected computers.
- 15 "(d) 'Computer program' means, but is not limited to, a series of instructions or statements, in
- 16 a form acceptable to a computer, which permits the functioning of a computer system in a manner
- 17 designed to provide appropriate products from or usage of such computer system.
- 18 "(e) 'Computer software' means, but is not limited to, computer programs, procedures and asso-
- 19 ciated documentation concerned with the operation of a computer system.
- 20 "(f) 'Computer system' means, but is not limited to, a set of related, connected or unconnected,
- 21 computer equipment, devices and software. 'Computer system' also includes any computer, device
- 22 or software owned or operated by the Oregon State Lottery or rented, owned or operated by another
- 23 person or entity under contract to or at the direction of the Oregon State Lottery.
- 24 "(g) 'Data' means a representation of information, knowledge, facts, concepts, computer software,
- 25 computer programs or instructions. 'Data' may be in any form, in storage media, or as stored in the
- 26 memory of the computer, or in transit, or presented on a display device. 'Data' includes, but is not
- 27 limited to, computer or human readable forms of numbers, text, stored voice, graphics and images.
- 28 "**(h) 'Intimate image' means a photograph, film, video, recording, digital picture or other**
- 29 **visual reproduction of a person whose intimate parts are visible or who is engaged in sexual**
- 30 **conduct.**
- 31 "**(i) 'Intimate parts' means uncovered human genitals, pubic areas or female nipples.**
- 32 "[*(h)*] **(j) 'Property'** includes, but is not limited to, financial instruments, information, including
- 33 electronically produced data, and computer software and programs in either computer or human
- 34 readable form, intellectual property and any other tangible or intangible item of value.
- 35 "[*(i)*] **(k) 'Proprietary information'** includes any scientific, technical or commercial information

1 including any design, process, procedure, list of customers, list of suppliers, customers' records or
2 business code or improvement thereof that is known only to limited individuals within an organiza-
3 tion and is used in a business that the organization conducts. The information must have actual or
4 potential commercial value and give the user of the information an opportunity to obtain a business
5 advantage over competitors who do not know or use the information.

6 “[*j*] (L) ‘Services’ [*include*] **includes**, but [*are*] **is** not limited to, computer time, data processing
7 and storage functions.

8 **“(m) ‘Sexual conduct’ means sexual intercourse or deviate sexual intercourse, as those**
9 **terms are defined in ORS 163.305, or masturbation.**

10 “(2) Any person commits computer crime who knowingly accesses, attempts to access or uses,
11 or attempts to use, any computer, computer system, computer network or any part thereof for the
12 purpose of:

13 “(a) Devising or executing any scheme or artifice to defraud;

14 “(b) Obtaining money, property or services by means of false or fraudulent pretenses, represen-
15 tations or promises; or

16 “(c) Committing theft, including, but not limited to, theft of proprietary information **or theft of**
17 **an intimate image.**

18 “(3) Any person who knowingly and without authorization alters, damages or destroys any
19 computer, computer system, computer network, or any computer software, program, documentation
20 or data contained in such computer, computer system or computer network, commits computer
21 crime.

22 “(4) Any person who knowingly and without authorization uses, accesses or attempts to access
23 any computer, computer system, computer network, or any computer software, program, documen-
24 tation or data contained in such computer, computer system or computer network, commits com-
25 puter crime.

26 “(5)(a) A violation of the provisions of subsection (2) or (3) of this section shall be a Class C
27 felony. Except as provided in paragraph (b) of this subsection, a violation of the provisions of sub-
28 section (4) of this section shall be a Class A misdemeanor.

29 “(b) Any violation of this section relating to a computer, computer network, computer program,
30 computer software, computer system or data owned or operated by the Oregon State Lottery or
31 rented, owned or operated by another person or entity under contract to or at the direction of the
32 Oregon State Lottery Commission shall be a Class C felony.”.

33 On page 2, delete lines 1 through 23.