

SENATE BILL REPORT

SB 5106

As Amended by House, April 13, 2015

Title: An act relating to creating a civil action for webcam unauthorized remote access.

Brief Description: Creating a civil action for webcam unauthorized remote access.

Sponsors: Senators O'Ban, Padden, Fain and Roach.

Brief History:

Committee Activity: Law & Justice: 2/02/15, 2/10/15 [DP].

Passed Senate: 3/03/15, 49-0.

Passed House: 4/13/15, 96-1.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Aldo Melchiori (786-7439)

Background: A webcam is a video camera that feeds or streams images through a computer or computer network. Many webcams have a light that indicates when the webcam is activated, but some do not. There is commercially available software that can enable a person to activate webcams on remote computers without the knowledge of the other computer owners. Under the federal Computer Fraud and Abuse Act, a private plaintiff may bring a civil suit for damages for unauthorized computer access, but must be able to show loss during a one-year period of at least \$5,000 to bring a suit under the statute.

In Washington it is a crime to, without authorization, intentionally gain access to a computer system or electronic database of another. It is computer trespass in the first degree, a class C felony ranked at level II on the sentencing grid, if the access is made with the intent to commit another crime or involves access to a governmental agency computer or database. Otherwise it is computer trespass in the second degree, a gross misdemeanor. An offender may be prosecuted separately for any other crime committed during the trespass.

Summary of Bill: A person who owns, rents, or leases a computer or computer network may bring a civil action against another person who gains unauthorized access to a webcam

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connected to the computer or network. If the unauthorized access is obtained by a computer in one jurisdiction to a computer in another jurisdiction, the access is considered to have occurred in both. Access means to intentionally enable, turn on, communicate with, or use without authority, permission, or consent.

The court may award general and special damages, injunctive relief, and other equitable relief, including costs to verify that the computer is not damaged or altered. A prevailing plaintiff may also be awarded attorney fees.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a growing problem. These people are accessing home computers and recording video of unsuspecting victims in compromising situations. This information can be used to demand payment from the victims. Making this a civil cause of action may help curb its abuse.

Persons Testifying: PRO: Senator O'Ban, prime sponsor.

House Amendment(s): "Without authority" and "unauthorized" means a person does not have the express prior permission, approval, or consent of the owner, renter, or leaser of a webcam to access the webcam. If access to a webcam is for purposes of a criminal investigation, the access is unauthorized and without authority unless the access is pursuant to a search warrant, a valid waiver of the warrant requirement, exigent circumstances, or under other authority of law.