



FEDERAL SENATE OF BRAZIL - CHAMBER OF DEPUTIES OF BRAZIL

LAW Nº 12,737, OF NOVEMBER 30, 2012.

Provides for the definition of computer-related crimes; amends Decree-Law nº 2,848, of December 7, 1940 – Penal Code; and makes further provisions.

THE PRESIDENT OF THE REPUBLIC I let it be known that the National Congress decrees and I sanction the following Law:

Article 1. This Law provides for the definition of computer-related crimes and makes further provisions.

Article 2. Decree-Law nº 2,848, of December 7, 1940 – Penal Code, shall have added articles 154-A and 154-B below:

“Trespass of a computing device

Article 154 – A. Trespassing a third party’s computing device, whether connected or not to the World Wide Web, by undue breach of the security mechanism, to obtain, tamper with or destroy data or information without express or tacit consent from the owner of the device or install vulnerabilities to obtain illicit advantage:

Penalty – imprisonment, from 3 (three) months to 1 (one) year, and a fine.

Paragraph 1. The individual who produces, offers, distributes, sells or disseminates a device or computer program to enable the conduct defined in the **head paragraph** is subject to the same penalty applied to that conduct.

Paragraph 2. The penalty shall be increased from one sixth to one third should any economic damage result from the trespass.

Paragraph 3. Should any access to the contents of private electronic communications, commercial or industrial secrets, or confidential information, thus defined in the law, or non-authorized remote access to the trespassed device occurs:

Penalty – imprisonment, from 6 (six) months to 2 (two) years, and a fine, if the conduct is not considered a more serious crime.

Paragraph 4. In the case of Paragraph 3, the penalty shall be increased from one third to two thirds should there be any dissemination, trade or transmission to third parties, on any account, of the data or information obtained.

Paragraph 5. The penalty shall be increased from one third to one half should the crime be committed against:

I – The President of the Republic, governors and mayors;

II - The chief justice of the Federal Supreme Court;

III – The Speaker of the House of Representatives, the President of the Federal Senate, the President of a State Legislature, the President of the Federal District Legislative Chamber, or the President of a City Council; or



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IV – The top officer of any direct and indirect administration agency, at the federal, state, municipal or Federal District levels.”

“Criminal Prosecution

Article 154 – B. For the crimes defined in article 154-A, criminal prosecution can only be carried out by means of representation, except if the crime is committed against the direct or indirect public administration of any of the Branches of the Federation, States, the Federal District or Municipalities or against public-service concessionaires.”

Article 3. Articles 266 and 298 of Decree-Law nº 2,848, of December 7, 1940 – Penal Code, shall henceforth read as follows:

“Interruption or disturbance of telegraphic, telephonic, computer, telematic, or public interest information services

Article 266. or who prevents or hinders their restoration Paragraph 2. The penalty shall double should the crime be committed in a time of public calamity.”

“Forgery of a private document

Article 298.

Card forgery

Sole paragraph. For the purposes provided in the head paragraph, a credit or debit card are comparable to a private document.”

Article 4. This Law shall come into force 120 (one hundred twenty) days after its official publication.

Brasília, November 30, 2012; 191st of the Independence and 124th of the Republic.
DILMA ROUSSEFF
José Eduardo Cardozo

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