

Regular Session, 2009

HOUSE BILL NO. 569

BY REPRESENTATIVES WHITE, ARMES, BOBBY BADON, BALDONE, BILLIOT, BROSSETT, BURRELL, CHANDLER, CHANEY, CONNICK, DIXON, DOERGE, DOVE, DOWNS, EDWARDS, ELLINGTON, GALLOT, GISCLAIR, MICKEY GUILLORY, GUINN, HARDY, HARRISON, HAZEL, HENDERSON, HENRY, HINES, HOFFMANN, HONEY, HOWARD, GIROD JACKSON, LAMBERT, LEBAS, LEGER, LITTLE, MCVEA, NORTON, POPE, RICHARDSON, RICHMOND, RITCHIE, ROY, ST. GERMAIN, THIBAUT, AND WILLIAMS

ATTORNEY GENERAL: Creates the Internet Crimes Investigation Fund

1 AN ACT

2 To enact R.S. 45:860, relative to the Internet Crimes Investigation Fund; to create the
3 Internet Crimes Investigation Fund; to impose a fee on Internet accounts; to provide
4 for use of the monies in the Internet Crimes Investigation Fund; to provide for
5 exemptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 45:860 is hereby enacted to read as follows:

8 §860. Internet Crimes Investigation Fund

9 A. There is hereby created, as a special fund in the state treasury, the Internet
10 Crimes Investigation Fund, hereinafter referred to as the "fund". The source of
11 monies in this fund shall be a fee equal to fifteen cents per month for each Louisiana
12 consumer account billed for Internet access. This fee shall be collected by the
13 Internet access service provider from each account billed and remitted to the
14 Department of Revenue. The fee shall be the liability of the consumer and not the
15 Internet service provider. No Internet service provider shall be liable to any person
16 on any claim arising from or in any way related to the collection or remittance of the

1 fee imposed pursuant to this Section, including but not limited to refund of the fee
2 to a consumer, failing to identify and collect the fee, or any use of the fee.

3 B. As used in this Section, "Internet service provider" means a facilities-
4 based provider or other entity that provides consumers with the ability to access the
5 Internet in exchange for consideration such as through a paid subscription or through
6 an agreement to view specific ads or content in exchange for Internet access.
7 "Internet service provider" shall not include an entity that provides wireless access
8 to the Internet through an unlicensed spectrum.

9 C. Fees collected by the Internet service providers shall be remitted to the
10 Department of Revenue quarterly on or before the twentieth day of the first month
11 of the next succeeding quarter. The Internet service provider shall be permitted to
12 deduct and retain three percent of the fees collected.

13 D. No Internet service provider shall be required to provide refunds nor
14 produce any records to substantiate any claim for refund. The consumer shall
15 produce all necessary records to support the claims.

16 E. Beginning July 1, 2009, after compliance with the requirements of Article
17 VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit an
18 amount equal to the monies received by the state treasury from the Internet service
19 providers into the fund.

20 F. The monies in the fund shall be subject to an annual appropriation by the
21 legislature and shall be used only as provided in Subsection C of this Section. The
22 monies in the fund shall be invested by the treasurer in the same manner as the
23 monies in the state general fund, and all interest earned shall be deposited and
24 credited to the fund. All unexpended or unencumbered monies remaining in the fund
25 at the end of the fiscal year shall remain to the credit of the fund.

26 G. Monies appropriated from the fund shall be used exclusively by the
27 Department of Justice to provide the following specific privileges, services, and
28 benefits to those Louisiana citizens having Internet access:

1 (1) Proactive undercover law enforcement operations conducted through the
2 Internet and specially designed to protect Louisiana citizens accessing the Internet
3 from criminals operating through the Internet. These proactive activities include the
4 following:

5 (a) Locating, investigating, and bringing to justice those who would commit
6 sex crimes upon children whom those persons locate through the Internet,
7 communicate with through the Internet, or both.

8 (b) Locating, investigating, and bringing to justice those persons who use the
9 Internet to facilitate the trading of images of pornography involving children.

10 (c) Locating, investigating, and bringing to justice those persons who use
11 the Internet to facilitate fraudulent schemes in an effort to defraud our citizens with
12 Internet access of money, goods, services, and other things.

13 (2) Follow-up investigative services.

14 (3) Computer forensic examination services of computers and other
15 electronic devices associated with allegations of crimes committed against or
16 attempted against Louisiana victims as a direct result of their having had Internet
17 access.

18 (4) Proactive training of local law enforcement in the proper handling of
19 crimes perpetrated or attempted against Louisiana citizens as a result of these
20 victims having had Internet access.

21 (5) Other privileges, services, and benefits designed to protect Louisiana
22 citizens with Internet access from crimes perpetrated against them by criminals
23 acting through the Internet.

24 H. The attorney general shall submit an annual report to the Joint Legislative
25 Committee on the Budget no later than thirty days prior to the regular session of the
26 legislature on the status of the fund including the amounts deposited into the fund
27 and performance data related to expenditures out of the fund.

1 I. The provisions of this Section shall not apply to the following:

2 (1) Public elementary and secondary schools.

3 (2) Public libraries.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval. The implementation date for the collection
9 of the fee shall be January 1, 2010.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

White

HB No. 569

Abstract: Imposes a fee on Internet accounts to fund the Internet Crimes Investigation Fund for use by the Dept. of Justice in the investigation and prosecution of crimes involving the Internet.

Proposed law creates the Internet Crimes Investigation Fund. The source of monies in this fund shall be a fee of 15¢ per month paid for each La. consumer account billed for Internet services. The fee shall be collected by the Internet access service provider and remitted to the Dept. of Revenue.

Proposed law provides that the fee shall be the liability of the consumer and not the Internet service provider.

Proposed law provides that no Internet service provider shall be liable to any person on any claim arising from or in any way related to the collection or remittance of the fee.

Proposed law defines "Internet service provider" as a facilities-based provider or other entity that provides consumers with the ability to access the Internet in exchange for consideration such as through a paid subscription or through an agreement to view specific ads or content in exchange for Internet access.

Proposed law provides that "Internet service provider" shall not include an entity that provides wireless access to the Internet through an unlicensed spectrum.

Proposed law requires the fees collected by the Internet service providers to be remitted to the Dept. of Revenue quarterly on or before the 20th day of the first month of the next succeeding quarter.

Proposed law authorizes the Internet service provider to deduct and retain 3% of the fees collected.

Proposed law provides that no Internet service provider shall be required to provide refunds nor produce any records to substantiate any claim for refund. The consumer shall produce all necessary records to support the claims.

Proposed law requires, beginning July 1, 2009, an amount equal to the monies received by the state treasury from the Internet providers be deposited into the fund.

Proposed law provides that the monies in the fund shall be subject to an annual appropriation by the legislature and shall only be used as set forth in proposed law.

Proposed law requires the monies in the fund to be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned shall be deposited and credited to the fund.

Proposed law provides that all unexpended or unencumbered monies remaining in the fund at the end of the fiscal year shall remain to the credit of the fund.

Proposed law requires monies appropriated from the fund to be used exclusively by the Dept. of Justice for specific privileges, services, and benefits to La. citizens having Internet access including:

- (1) Proactive undercover law enforcement operations for protection from criminals operating through the Internet by locating, investigating, and bringing to justice:
 - (a) Those who would commit sex crimes upon children located or communicated with through the Internet.
 - (b) Persons who would facilitate the trading of pornographic images of children through the Internet.
 - (c) Persons who use the internet to defraud La. citizens with Internet access of money, goods, services, and other things.
- (2) Follow-up investigative services.
- (3) Computer forensic examination services of computers and other electronic devices associated with allegations of crimes committed against or attempted against La. victims as a direct result of their having had Internet access.
- (4) Proactive training of local law enforcement in the proper handling of crimes perpetrated or attempted against La. citizens as a result of these victims having had Internet access.
- (5) Other privileges, services, and benefits designed to protect La. citizens with Internet access from crimes perpetrated against them by criminals acting through the Internet.

Proposed law requires the attorney general to submit an annual report to the Joint Legislative Committee on the Budget no later than 30 days prior to the regular session of the legislature on the status of the fund including the amounts deposited into the fund and performance data related to expenditures out of the fund.

Proposed law provides that the provisions of proposed law do not apply to public elementary and secondary schools and public libraries.

Proposed law provides that the implementation date for the collection of the fee shall be Jan. 1, 2010.

Effective upon signature of governor.

(Adds R.S. 45:860)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Decreases the amount of the fee to 15¢.
2. Deletes the provision that only Internet providers subject to the control and jurisdiction of the Public Service Commission shall pay the fee.
3. Narrows the crimes which the Dept. of Justice shall use money from the fund to investigate and prosecute to sex offenses as defined in R.S. 15:541, identity theft pursuant to R.S. 14:67.16, and bank fraud pursuant to R.S. 14:71.1.

Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill.

1. Specifies that the fee is monthly per consumer account and collected and remitted to the state by the Internet access service provider.
2. Changes the permissible uses of monies in the fund.
3. Requires annual report to the Joint Legislative Committee on the Budget.
4. Adds effective date.

House Floor Amendments to the reengrossed bill.

1. Makes technical corrections.
2. Clarifies that the fee shall be the liability of the consumer and not the Internet service provider and that no Internet service provider shall be liable to any person on any claim arising from or in any way related to the collection or remittance of the fee.
3. Defines "Internet service provider".
4. Requires fees collected by the Internet service providers to be remitted to the Dept. of Revenue quarterly on or before the 20th day of the first month of the next succeeding quarter.
5. Authorizes the Internet service provider to deduct and retain 3% of the fees collected.
6. Specifies that no Internet service provider shall be required to provide refunds nor produce any records to substantiate any claim for refund but the consumer shall produce all necessary records to support the claims.
7. Sets Jan. 1, 2010 as the implementation date for collection of the fee.
8. Exempts public elementary and secondary schools and public libraries from payment of the fee.