



SPONSOR: Sen. Sturgeon & Sen. Townsend & Sen. Walsh &
Rep. Osienski
Sens. Hoffner, S. McBride; Reps. Morrison, K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 147

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COMPUTER-RELATED OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subpart K, Subchapter III, Chapter 5, Title 11 of the Delaware Code by making deletions as
2 shown by strike through and insertions as shown by underline as follows:

3 § 942. Computer-related offense; exceptions.

4 A person is not guilty of a crime under §§ 932, 933, or 935 of this title if all of the following apply:

5 (1) The employee's actions were for the purpose of reporting or filing a claim by an employee that the
6 employer violated a state or federal employment law protecting the rights of employees.

7 (2) The employee accessed computer services or systems as authorized for the employee's use in the course of
8 the employee's employment.

9 (3) Information obtained by the employee was disclosed only for the purpose of reporting or filing a claim by
10 an employee under paragraph (1) of this section.

11 Section 2. Amend § 941, Title 11 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 941. Remedies of aggrieved persons.

14 (h) If a person's actions are not a crime under § 942 of this title, an employer may not use a violation of §§ 932,
15 933, or 935 of this title to bring an action, claim, counterclaim, or crossclaim against a current or former employee under
16 this section.

SYNOPSIS

This Act creates a narrow exception to the computer crimes under §§ 932, 933, and 935 of Title 11 because these crimes contain elements broad enough to include actions employees may take to document or report an employer's violation of state or federal employment laws protecting the rights of employees. In addition to criminal penalties, § 941 of Title 11 allows a civil action for treble damages against an employee for a violation of any provision of §§ 932, 933, or 935 of Title 11.

Like Senate Bill No. 147, Senate Substitute No. 1 for SB 147, does all of the following:

1. Provides that an employee is not guilty of a crime under §§ 932, 933, or 935 of Title 11 if the employee's actions were taken to pursue a claim by an employee that the employer violated a state or federal employment law protecting the rights of employees and the information obtained by the employee was only disclosed for this purpose.

2. Clarifies that if an exemption to a crime under §§ 932, 933, or 935 of Title 11 applies, an employer may not bring a civil action under § 941 of Title 11 against a current or former employee for a violation of §§ 932, 933, or 935 of Title 11.

Senate Substitute No. 1 for SB 147 differs from SB 147 by making the following revisions to clarify the narrow intent of this Act:

1. Does not include § 936 of Title 11, destruction of computer equipment, under this exemption.

2. Replaces the words "investigating, exploring, or pursuing" with "reporting or filing".

3. Requires that the employee accessed computer services or systems as authorized for the employee's use in the course of the employee's employment.

Author: Senator Sturgeon