

What is Cybercrime law or RA10175 in the Philippines, the prohibited acts and penalty?

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(ARA MINA code)

A citizen has no fear when he knows that he has not committed any crime. The possibility of Arrest, seizure or detention is far from his conception. What then is so violent about RA10175?

1. "AID" (a) Aiding or Abetting in the Commission of Cyber crime. If a post in face book is libelous, the tags share and like commands abet the commission. Liking and tagging keeps the life of the libelous remark regardless of the author thus, a continuing crime. Arousing their curiosity, it notifies other computer users of what you have liked or tagged.

2. "RECKLESS"

The intentional or RECKLESS alteration, damaging, deletion or deterioration of computer data, electronic document, or electronic data message, without right, including the introduction or transmission of viruses. RECKLESS means lack of foresight or skill in using a computer. If you open an email message or visited a website, there are these possibilities:

a. you spread a virus causing damage or even without damage to other computer accidentally and you are unaware of it;

b. Your computer is being manipulated by other users in violation of this law and you are unaware of it.

In these instances if you lack the sufficient knowledge and foresight to prevent it, you are reckless and will end up violating this law. The law then requires all computer users to have the same level of computer skills and knowledge. It is like saying that before you swim in the pool; you got to have a gold medal in swimming at the Asian games Instead of protecting beginners in computer and Internet, the law prevents or isolates this class of users for their lack of knowledge or skill. There is no due process of law in the cyber crime law.

3. "ATTEMPT" in section 5b.

(b) Attempt in the Commission of Cyber crime. — Any person who willfully attempts to commit any of the offenses enumerated in this Act shall be held liable.

Generally, in a continuing crime, venue and jurisdiction of the case falls in the place of its commission. Where in the Philippines will one determine venue and jurisdiction when a user can abet cyber crime anywhere in the Philippines and even worldwide? These means one has the option to file a case in the RTC of Sulu or Batanes if he likes. These will result to harassment.

4. "MULTIPLE" suit —c2sec7 "A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code, as amended, or special laws". These means that a criminal case covered by this law does not bar another criminal case like those found in the revised penal code, e -commerce law, Access device regulation law etc.

5. INTERCEPTION. Computer users are not allowed to intercept data, only law enforcers." In a warrant less interception, law enforcers have the right to intercept communication that does not involve the content. It is dangerous because one may be under surveillance just for mere suspicion. In these case "the fruit of the poisonous tree" will bear a lot of fruit.

6. "NO WARRANT AND NON COMPLIANCE"

SEC. 19. "Restricting or Blocking Access to Computer Data. — When a computer data is prima facie found to be in violation of the provisions of this Act, the DOJ shall issue an order to restrict or block access to such computer data." This is without search and seizure warrant. "Failure to comply with the provisions of Chapter IV hereof specifically the orders from law enforcement authorities shall be punished as a violation of Presidential Decree No. 1829". (Penalty max 6 yrs. Imprisonment, 100k or both).

7. "ARTICLE 355" of the Revised Penal Code or Libel

The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future

In this law net shop owners, Internet Service providers, Facebook, twitter and the likes can claim no liability because they only own the "ink or machinery" of the crime. However, this only applies to the consummated acts in cyber crime. It does not apply to internet libel.

There must not be an attempted stage in libel. But this law says that it has. In this stage, net shop owners, Internet Service providers, Facebook, twitter and the likes are then required to monitor data which necessarily includes the content but with warrant before transmission.

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