

Presidency of the Republic

Civil House
Legal Affairs Subsection

LAW N. 12,737, NOVEMBER 30, 2012.

Provides for the definition of computer-related crimes, amends Decree-Law n. 2,848, of December 7, 1940 – Penal Code, and sets forth other provisions.

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

Art. 1 This Law provides for the definition of computer-related crimes and sets forth other provisions.

Art. 2 The following Articles 154-A and 154-B are added to Decree-Law n. 2,848, December 7, 1940 – Penal Code:

"Trespass of a computer-related device

Art. 154-A. Trespassing another party's computer-related device, whether connected or not to the World Wide Web, by means of undue violation of a security mechanism, to obtain, tamper with, or destroying data or information without express or tacit authorization by the device owner, or to install vulnerabilities in order to obtain an illicit advantage:

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

§ 1 The same penalty applies to any person who produces, offers, distributes, sells or disseminates a computer device or software with the aim of making possible the conduct defined in the head paragraph.

§ 2 The penalty shall be increased from one sixth to one third if the trespass results in economic harm.

§ 3 If the trespass results in the collection of the content of private electronic communications, commercial or industrial secrets, classified information, as defined by law, or the unauthorized remote control of the trespassed device:

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

§ 4 In the case of paragraph 3, the penalty shall be increased from one to two thirds should there be any dissemination, trading or transmission to a third party, on any account, of the collected data or information.

§ 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 or mayors;

II – President of the Supreme Federal Court;

III – President of the House of Representatives, the Federal Senate, State Legislative Assembly, Legislative Chamber of the Federal District, or Municipal Chamber; or

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

"Criminal prosecution

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

Art. 3 Articles 266 and 298 of Decree-Law n. 2,848, December 7, 1940 – Penal Code, shall henceforth read as follows:

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

Art. 266

§ 1 The same penalty applies to any person who interrupts telematic or public interest information service, or prevents or hinders its recovery.

§ 2 Penalties shall be doubled if the crime is committed on a public calamity occasion".
(NR)

"Forgery of a private document

Art. 298

Card forgery

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

Art. 4 This Law shall enter into force 120 (one hundred and twenty) days after its official publication.

Brasília, November 30, 2012; Year 191 of the Independency and year 124 of the Republic.

DILMA ROUSSEFF

José Eduardo Cardozo

This version does not replace the text published in the Official Gazette of December 3, 2012.

Free translation of the original text into English

Official text available at: www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/112737.htm