AN ACT

AMENDING TITLE 13, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2012; RELATING TO ONLINE IMPERSONATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 20, Arizona Revised Statutes, is amended by adding section 13-2012, to read:

13-2012. Online impersonation; defenses; classification; definitions

A. A person commits online impersonation if the person, without obtaining the other person's consent and with the intent to harm, defraud, intimidate or threaten any person, uses the name or persona of another person to do either of the following:

1. Create a Web page on a commercial social networking site or other Internet website.
2. Post or send one or more messages on or through a commercial social networking site or other Internet website, other than on or through an electronic mail program or message board program.

B. A person commits online impersonation if the person sends an electronic mail, instant message, text message or similar communication that references a name, domain address, phone number or other item of personal identifying information belonging to any person and all of the following apply:

1. The person does not obtain the other person's consent.
2. The person intends to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication.
3. The person intends to harm or defraud any person.

C. If conduct that constitutes an offense under this section also constitutes an offense under any other law, the person may be prosecuted under this section, the other law, or both.

D. It is a defense to a prosecution under this section that the person is any of the following entities or that the person's conduct consisted solely of action taken as an employee of any of the following entities:

1. A commercial social networking site.
2. An Internet service provider.
3. An interactive computer service as defined in 47 United States Code section 230.
4. A telecommunications provider.
5. A video service provider or cable service provider.

E. Online impersonation under subsection A of this section is a class 5 felony. Online impersonation under subsection B of this section is a class 1 misdemeanor, except that it is a class 5 felony if the person commits the offense with the intent to solicit a response by emergency personnel.

F. For the purposes of this section:

1. "Cable service provider" means a person who provides cable service.
2. "Commercial social networking site" means any business, organization or other similar entity operating a website that permits persons to become registered users to establish personal relationships with other
3. "TELECOMMUNICATIONS PROVIDER":
   (a) MEANS:
      (i) A CERTIFICATED TELECOMMUNICATIONS UTILITY.
      (ii) A SHARED TENANT SERVICE PROVIDER.
      (iii) A NONDOMINANT CARRIER OF TELECOMMUNICATIONS SERVICES.
      (iv) A PROVIDER OF COMMERCIAL MOBILE SERVICE AS DEFINED IN THE
           COMMUNICATIONS ACT OF 1934 (47 UNITED STATES CODE SECTION 332(d)), FEDERAL
           COMMUNICATIONS COMMISSION RULES AND THE OMNIBUS BUDGET RECONCILIATION ACT OF
           1993 (P.L. 103-66).
   (b) DOES NOT INCLUDE:
      (i) A PROVIDER OF ENHANCED OR INFORMATION SERVICES, OR ANOTHER USER OF
          TELECOMMUNICATIONS SERVICES, WHO DOES NOT ALSO PROVIDE TELECOMMUNICATIONS
          SERVICES.
      (ii) A STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION OR A
           SERVICE PROVIDED BY A STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION.

4. "VIDEO SERVICE PROVIDER" MEANS A VIDEO PROGRAMMING DISTRIBUTOR THAT
   DISTRIBUTES VIDEO PROGRAMMING SERVICES THROUGH WIRELINE FACILITIES LOCATED
   AT LEAST IN PART IN THE PUBLIC RIGHT OF WAY WITHOUT REGARD TO DELIVERY
   TECHNOLOGY. VIDEO SERVICE PROVIDER DOES NOT INCLUDE A CABLE SERVICE
   PROVIDER.