
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 764 Session of
2013

INTRODUCED BY WATSON, COHEN, SWANGER, MARSHALL, BIZZARRO, DAVIS,
GINGRICH, D. COSTA, DONATUCCI, MILLARD, R. BROWN, BAKER,
MULLERY, READSHAW, HESS, KAUFFMAN, C. HARRIS, O'NEILL,
M. K. KELLER, GROVE, FLECK, MAJOR, BROOKS, HICKERNELL,
SANTARSIERO, PICKETT, MURT, PETRI, MARSICO, CLYMER,
DENLINGER, MATZIE, NEILSON, DeLUCA, MILNE, FARRY, MACKENZIE,
GRELL AND PEIFER, FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 25, 2013

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, defining the offense of online impersonation;
4 prescribing a penalty; and providing for damages in actions
5 for online impersonation.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 18 of the Pennsylvania Consolidated
9 Statutes is amended by adding a section to read:

10 § 4121. Online impersonation.

11 (a) Offense defined.--A person commits the offense of online
12 impersonation if the person:

13 (1) uses the name, persona or identifying information of
14 another person or of a fictitious person to do any of the
15 following:

16 (i) create a web page;

17 (ii) post one or more messages on a commercial

1 social networking site;
2 (iii) send an electronic mail, instant message, text
3 message or similar communication;
4 (iv) open an e-mail account; or
5 (v) open an account or profile on a commercial
6 social networking site; and
7 (2) the person engages in activity prohibited under any
8 of the following:

9 (i) Section 2706 (relating to terroristic threats);
10 (ii) Section 2709 (relating to harassment);
11 (iii) Section 2709.1 (relating to stalking);
12 (iv) Section 4952 (relating to intimidation of
13 witnesses or victims);
14 (v) Section 4953 (relating to retaliation against
15 witness, victim or party).

16 (b) Grading.--A violation of subsection (a) shall be
17 classified as a misdemeanor of the second degree or one degree
18 higher in the classification specified in section 106 (relating
19 to classes of offenses) than the classification of the
20 underlying offense set forth in subsection (a)(2), whichever is
21 greater. Each violation constitutes a separate offense.

22 (c) Construction.--Nothing in this section shall be
23 construed to apply to works of public interest, including
24 commentary, satire and parody.

25 (d) Territorial applicability.--A person may be convicted
26 under the provisions of this section if the victim or the
27 offender is located within this Commonwealth.

28 (e) Concurrent jurisdiction to prosecute.--In addition to
29 the authority conferred upon the Attorney General by the act of
30 October 15, 1980 (P.L.950, No.164), known as the Commonwealth

1 Attorneys Act, the Attorney General shall have the authority to
2 investigate and to institute criminal proceedings for any
3 violation of this section or any series of violations involving
4 more than one county of this Commonwealth or another state. No
5 person charged with a violation of this section by the Attorney
6 General shall have standing to challenge the authority of the
7 Attorney General to investigate or prosecute the case, and if a
8 challenge is made, the challenge shall be dismissed, and no
9 relief shall be made available in the courts of this
10 Commonwealth to the person making the challenge.

11 (f) Definitions.--As used in this section, the following
12 words and phrases shall have the meanings given to them in this
13 subsection unless the context clearly indicates otherwise:

14 "Commercial social networking site." A business,
15 organization or other similar entity that operates an Internet
16 website and permits persons to become registered users for the
17 purpose of establishing personal relationships with other users
18 through direct or real-time communication with other users or
19 the creation of web pages or profiles available to the public or
20 to other users. The term does not include an electronic mail
21 program or a message board program.

22 "Document." Any writing, including, but not limited to, a
23 birth certificate, Social Security card, driver's license,
24 nondriver government-issued identification card, baptismal
25 certificate, access device card, employee identification card,
26 school identification card or other identifying information
27 recorded by any other method, including, but not limited to,
28 information stored on a computer, computer disc, computer
29 printout, computer system, or part thereof, or by any other
30 mechanical or electronic means.

1 "Identifying information." Any document, photographic,
2 pictorial or computer image of another person or any fact used
3 to establish identity, including, but not limited to, a name, e-
4 mail address, birth date, Social Security number, driver's
5 license number, nondriver governmental identification number,
6 telephone number, checking account number, savings account
7 number, student identification number, employee or payroll
8 number or electronic signature. The term includes a document,
9 photographic, pictorial or computer image of a fictitious person
10 or any fact used to establish identity as provided in this
11 definition in the case of a fictitious person.

12 Section 2. Title 42 is amended by adding a section to read:
13 § 8316.1. Damages in actions for online impersonation.

14 (a) Cause of action established.--A person may bring a civil
15 cause of action based upon online impersonation as defined in 18
16 Pa.C.S. § 4121 (relating to online impersonation) in order to
17 recover damages for any loss or injury sustained as a result of
18 the violation.

19 (b) Parties authorized to bring action.--An action may be
20 brought by:

21 (1) A natural person.

22 (2) A parent or guardian of a natural person, if the
23 natural person is incompetent or is an individual under 18
24 years of age.

25 (3) A corporation, partnership, limited liability
26 company, business trust, other association, estate, trust or
27 foundation.

28 (c) Damages.--A court of competent jurisdiction may award
29 damages as follows:

30 (1) Actual damages arising from the incident or \$500,

1 whichever is greater. Damages include loss of money,
2 reputation or property, whether real or personal. The court
3 may, in its discretion, award up to three times the actual
4 damages sustained, but not less than \$500.

5 (2) Reasonable attorney fees and court costs.

6 (3) Additional relief the court deems necessary and
7 proper.

8 (d) Other remedies preserved.--Nothing in this section shall
9 be construed to limit the ability of a person to receive
10 restitution pursuant to 18 Pa.C.S. § 1106 (relating to
11 restitution for injuries to person or property).

12 Section 3. This act shall take effect in 60 days.