SENATE BILL NO. 482

90TH GENERAL ASSEMBLY

AN ACT

To repeal section 44.010, RSMo Supp. 1998, and to enact in lieu thereof eight new sections relating to information technology resources, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 44.010, RSMo Supp. 1998, is repealed and eight new sections enacted in lieu thereof, to be known as sections 44.010, 537.825, 537.827, 537.831, 537.834, 537.837, 537.840 and 537.842, to read as follows:

44.010. As used in sections 44.010 to 44.130, the following terms mean:

(1) "Agency", the state emergency management agency;

(2) "Director", the director of the state emergency management agency;

(3) "Disasters", disasters which may result from terrorism, or from fire, wind, flood, earthquake, or other natural or man-made causes;

(4) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

(5) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions**, including any projected or actual computer system failure related to the date change necessitated by the year 2000,** within this state when the safety and welfare of the inhabitants of this state are jeopardized;

(6) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

(7) "Emergency management functions", "emergency management activities" and "emergency management service", those functions required to prepare for and carry out actions

to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

(8) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources;

(9) "Executive officer of any political subdivision", the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

(10) "Local organization for emergency management", any organization established under this law by any county or by any city, town, or village to perform local emergency management functions;

(11) "Management", the activities of the emergency management director in the implementation of emergency operations plans during time of emergency;

(12) "Planning", activities of the state and local emergency management agency in the formulation of emergency management plans to be used in time of emergency;

(13) "Political subdivision", any county or city, town or village, or any fire district created by law.

537.825. For the purposes of sections 537.825 to 537.842, the following terms shall mean:

(1) "Business", an individual or any entity, however organized, with less than fifty employees, that is routinely engaged in this state in providing goods or services in the stream of commerce, and excludes any governmental agency;

(2) "Date data", data that contains dates or that contain both dates and times;

(3) "Information technology product", includes software, firmware, microcode, hardware, and embedded chips that create, read, write, calculate, compare, sequence, or otherwise process date data;

(4) "Solution provider", any entity that accepts compensation or other valuable consideration from a business either to assess whether it or any of its information technology products is year-2000 compliant or to make it or any of its information technology products year-2000 compliant;

(5) "Year-2000 compliant":

(a) An information technology product is "year-2000 compliant" if it processes all of its date data accurately and if it will do so even for data that contain dates occurring before February 29, 1996, and dates occurring after February 29, 2000; and

(b) A business is "year-2000 compliant" if all of its information technology products are year-2000 compliant.

537.827. 1. After the effective date of this act, the exclusive remedies in this state

for recovering from a business, as defined herein, damages caused by its failure to be
compliant are those provided in sections 537.825 to 537.842.

2.
compliant may be liable:

For compensatory damages caused by its failure to be year-2000 compliant;
and

For punitive damages not greater than two times the amount of any
compensatory

2000 compliant.

Compensatory damages awarded pursuant to this section shall exclude any
damages
actually made to the plaintiff by the business concerning whether it or any of its
technology products were year-2000 compliant.

4.
to recover reasonable costs and reasonable attorney's fees; however, a business is not
for such costs and fees if, before September 1, 1999, it has exercised due diligence
in
reasonable good-faith belief that it was year-2000 compliant or had adequately
to the other party before that date that it was not year-2000 compliant.

5.
state against a business for damages caused by the failure of the business to be year-
compliant, unless each member of the class has suffered damages in excess of fifty
thousand

537.831. A director or officer of a business is not personally liable for any
resulting from the failure of the business to become year-2000 compliant if the
officer
determine actions necessary for the business to become year-2000 compliant and that
can reasonably be expected to:

(1)
(2) Identify those persons who are likely to suffer damages as a result of the
failure
them by September 1, 1999, that it is not year-2000 compliant.

A solution provider who represents to a business that it or any of its
information
will make the business or any of its information technology products year-2000
thereby gives an express warranty upon which the business may rely; this
express

537.837. 1. All information acquired by a solution provider concerning the

information technology operations, programs, equipment and data of a business remain

property of the business. The solution provider:

(1)

business; and

Shall not disclose the information to another without the express consent of the

2. Notwithstanding any provision of law to the contrary, a business may bring

action to enjoin any actual or threatened violation of subsection 1 of this section or

to

damages include:

Both the actual monetary loss incurred as a result of the violation and any

unjust

calculating the actual monetary loss incurred; and

If the misuse or disclosure was intentional, punitive damages in an amount

not

subsection. The court shall award costs and reasonable attorney's fees to the prevailing

in any action pursuant to this subsection.

3.

subsection 1 of this section is guilty of a class A misdemeanor.

Any person who for pecuniary gain intentionally misuses or discloses information

537.840. The exchange of information among businesses concerning measures

have been taken or are to be taken in order for a business to become year-2000 compliant

pursuant to chapter 416, RSMo.

The court may submit a claim for damages pursuant to sections 537.825 to

Section B. Because of the immediate need to address year-2000 compliance issues, this act

deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and

shall be in full force and effect upon its passage and approval.

✓