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BILL ANALYSIS

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Senate Bill 151 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Senator Cameron S. Brown  
Committee: Technology and Energy

### **CONTENT**

The bill would create the "Spyware Control Act" to prohibit a person who was not an authorized user from willfully, with actual knowledge, or with conscious avoidance of actual knowledge, causing computer software to be copied onto a computer in Michigan and using it to do any of the following:

- Deceptively modify settings related to the computer's internet access or use, collect personal identifying information, or deceptively prevent an authorized user's reasonable efforts to disable or block the reinstallation of software.
- Misrepresent that software would be uninstalled or disabled by an authorized user's action, with knowledge that it would not, or falsely represent that software had been disabled.
- Deceptively remove, disable, or render inoperative security, antispyware, or antivirus computer software.
- Take control of the computer to engage in certain acts.
- Modify security settings for the purpose of stealing personal identifying information or causing damage to one or more computers.

The bill also would prohibit a person from inducing an authorized user to install a software component by misrepresenting that the installation was necessary for security or privacy reasons or in order to gain access to a particular type of content, or deceptively causing the copying and execution of a software component that caused the computer to use the component in violation of the proposed Act.

The Attorney General or an adversely affected person could bring an action against a person for violating the Act. A person could obtain an injunction to prohibit further violations, and/or actual damages or \$10,000 per violation, whichever was greater. For a knowing violation, a person could obtain the greater of three times the amount of actual damages, or \$30,000 per violation, in addition to an injunction. Additionally, the prevailing party would be entitled to recover actual costs and reasonable attorney fees.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would have an indeterminate impact on the Department of Attorney General depending on the number of cases that would be filed under this legislation.

Date Completed: 3-8-05

Fiscal Analyst: Bill Bowerman

[floor/sb151](#)

Bill Analysis @ [www.senate.michigan.gov](http://www.senate.michigan.gov)

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