

Senator Whitehouse,

We are progressive activist organizations which focus on a variety of issues that we know are dear to you as well — including workers' rights, climate change, civil liberties, civil rights, and more. We write to express our concern about your proposed amendment to the Computer Fraud and Abuse Act.

The CFAA has been wielded against activists, and we worry that your amendment could increase potential exposure for activists for making use of run-of-the-mill tactics.

In particular, we would point you to *Pulte Homes, Inc. v. Laborers' International Union of North America*, whereby LIUNA was successfully sued under the CFAA for encouraging individual members and activists to make phone calls or send emails — tactics that are in the toolkit of any labor union or grassroots organization.

No government that respects the public's right to speak and organize should ban such behavior, yet that is precisely what the CFAA has been interpreted to do. That activists must work under fear of such exposure redounds to the benefit of corporations that are exploitative of their workers, polluters, and others who stand opposed to our shared progressive values.

Additionally, your amendment's language that allows for injunctions against ostensible hacking using so-called "bot-nets" could be triggered by legitimate activism — as undertaken by a union, "netroots," or other grassroots activist organization.

The CFAA is notorious for its vague scope and harsh penalties, and your amendment makes penalties for certain violations even harsher — without clarifying the breadth of behavior that ought be understood to violate the statute — likely exacerbating its propensity to over-criminalization.

We ask that you withdraw your amendment, and that any changes to the CFAA be made with a more thorough vetting, through the standard committee hearing and mark-up processes, and as a function of a comprehensive public review of the statute and its intended purposes. Please do not hesitate to contact Mark Stanley, director of communications and operations with Demand Progress, at 202-681-7582 or mark@demandprogress.org, with any questions or comments.

Sincerely,

Center for Biological Diversity

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Greenpeace USA
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