

## BUSINESS SOFTWARE ALLIANCE

# SOFTWARE PIRACY AND THE LAW

## Software Piracy in the United States

### What Is the Law Regarding Software Piracy?

*Most people would never consider stealing something that did not belong to them. But those who copy software without authorization are, in fact, stealing someone else's property — their intellectual property. And, they are breaking the law.*

Software development involves a team effort that blends the creative ideas and talents of programmers, writers and graphic artists. And like most creative works, such as books, music and films, computer software is protected by U.S. copyright laws, U.S. code Title 17 and 18.

When you purchase software, you do not become the owner of the copyright. Rather, you are purchasing the right to use the software under certain restrictions imposed by the copyright owner, typically the software publisher. These rules are described in the documentation accompanying the software — the license. Most often, it states that you have the right to load the software onto a single computer and make one backup copy. If you copy, distribute or install the software in ways that the license prohibits, whether you are swapping disks with friends and coworkers or participating in widespread duplication, you are violating federal copyright law. Even if you only help someone else make unauthorized copies, you are still liable under the copyright law.

Many businesses, both large and small, face serious legal risks because of software piracy. Under the law, a company can be held liable for its employees' actions. If an employee installs unauthorized software copies on company computers or acquires illegal software through the Internet, the company can be sued for copyright infringement. This is true — even if the company's management was unaware of the employee's actions.

To make or download unauthorized copies of software is to break the law, no matter how many copies are involved. Whether you are casually making

a few copies for friends, loaning disks, distributing and/or downloading pirated software via the Internet, or buying a single software program and then installing it on 100 company computers, you are committing a copyright infringement. It doesn't matter if you are doing it to make money or not — you are exposing yourself to serious civil and potentially even criminal penalties. For example, individuals using the Internet to sell or distribute pirated or counterfeit software programs through online auctions and "warez" sites may be criminally prosecuted, even if they do not profit from the illegal activity.

### What Are the Penalties for Pirating Software?

Software theft is stealing. If you or your company would be caught copying software, you may be held liable under both civil and criminal law.

If the copyright owner brings a civil action against you, the owner can seek to stop you from using its software immediately and can also request monetary damages. The copyright owner may choose between actual damages, which includes the amount it has lost because of your infringement as well as any profits attributable to the infringement and statutory damages, which can be as much as \$150,000 for each program copied. In addition, the government can criminally prosecute you for copyright infringement. If convicted, you can be fined up to \$250,000, or sentenced to jail for up to five years, or both.

In addition to legal consequences, using copied or counterfeit software also means:

- Greater exposure to software viruses, corrupt disks or otherwise defective software
- Inadequate or no documentation and no warranties
- Lack of technical product support available to properly licensed users
- Ineligibility for software upgrades offered to properly licensed users

### What Are Your Responsibilities As a Software User?

Your first responsibility is to purchase only legitimate software products. Make sure you get genuine disks, manuals and license documentation. Avoid loose or hand-labeled disks or software offered at prices that are “too good to be true.” Be wary of unscrupulous Internet vendors, who advertise attractive deals on “genuine” software that was overstocked or otherwise discounted for inventory reasons. Remember that a high percentage of software sold on online auctions is illegal.

Next, install and use your software in accordance with the license agreement. Since these agreements differ from publisher to publisher, you need to read them carefully. When someone else installs the software, be sure that individual provides you with proof that the product is fully licensed. If you have outsourced your information technology needs to a consultant or application service provider, you are still responsible for compliance.

Software piracy is not a victimless crime. Piracy denies the software developer its rightful revenue and harms consumers and the industry as a whole.

All software developers, both big and small, spend years creating software. A portion of every dollar spent in purchasing original software is funneled back into research and development, so that newer, more advanced software can be produced. When you purchase illegal or counterfeit copies, your money goes straight into the pockets of software pirates.

### What Is the Economic Impact of Software Piracy?

In the United States, 22 percent of all computer software is unlicensed. The Business Software Alliance (BSA) estimates that in 2003 the industry lost \$6.5 billion in revenue in the United States alone due to software theft. But software piracy's damaging economic impact is not only confined to the software industry. In fact, software piracy has an effect on the economic health of the nation as a whole, including jobs, wage and tax revenue losses.

### What More Can You Do to Prevent Piracy?

For more information about software piracy, to obtain a free software management guide or to report piracy, call the toll-free BSA anti-piracy hotline at **1-888-NO-PIRACY** or log on at [www.bsa.org](http://www.bsa.org).

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