



House of Representatives

General Assembly

File No. 221

February Session, 2006

Substitute House Bill No. 5694

House of Representatives, March 29, 2006

The Committee on General Law reported through REP. STONE, C. of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING IDENTITY THEFT AND THEFT OF PERSONAL INFORMATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) As used in this
2 section:

3 (1) "Business" means a sole proprietorship, partnership, corporation,
4 association, limited liability company or other entity, whether or not
5 organized to operate for profit, including, but not limited to, a financial
6 institution organized or chartered, or holding a license or
7 authorization to conduct business under the laws of this state, any
8 other state, the United States or any other country, or the parent,
9 affiliate or a subsidiary of such financial institution.

10 (2) "Customer" means a person who provides personal information
11 to a business for the purpose of purchasing or leasing a product or
12 obtaining a service from such business.

13 (3) "Personal information" means the following information that
14 identifies, relates to, describes or is capable of being associated with a
15 particular individual: (A) Signature, (B) Social Security number, (C)
16 physical characteristics or description, (D) passport number, (E)
17 driver's license or state identification card number, (F) insurance policy
18 number, (G) bank account number, (H) credit or debit card number, or
19 (I) individual financial information.

20 (4) "Record" means any material, regardless of physical form, on
21 which information is recorded or preserved by any means, including
22 in written or spoken words, graphically depicted, printed or
23 electromagnetically transmitted. "Record" does not include publicly
24 available directories containing information a person has voluntarily
25 consented to have publicly disseminated or listed, such as name,
26 address or telephone number.

27 (b) A business shall take all reasonable steps to destroy or arrange
28 for the destruction of a customer's records within its custody or control
29 containing personal information which is no longer to be retained by
30 the business, by shredding, erasing or otherwise modifying the
31 personal information in those records to make it unreadable or
32 indecipherable through any means to: (1) Ensure the security and
33 confidentiality of such customer's personal information, (2) protect
34 against any anticipated threats or hazards to the security or integrity of
35 customer personal information, and (3) protect against unauthorized
36 access to or use of customer personal information that could result in
37 substantial harm or inconvenience to the customer.

38 (c) A disposal business that conducts business in this state or
39 disposes of personal information of residents of this state shall take all
40 reasonable measures to dispose of records containing personal
41 information by implementing and monitoring compliance with
42 policies and procedures that protect against unauthorized access to or
43 use of personal information during or after the collection and
44 transportation and disposal of such information.

45 (d) This section does not apply to any of the following: (1) A bank,

46 credit union or financial institution, as defined under the federal
47 Gramm Leach Bliley Act, 15 USC 6801, et seq., that is (A) subject to the
48 regulation of the Office of the Comptroller of the Currency, the Federal
49 Reserve, the National Credit Union Administration, the Securities and
50 Exchange Commission, the Federal Deposit Insurance Corporation, the
51 Office of Thrift Supervision of the United States Department of the
52 Treasury, or the Connecticut Department of Banking, and (B) subject to
53 the privacy and security provisions of the Gramm Leach Bliley Act, 15
54 USC 6801, et seq., (2) a health insurer or health care facility that is
55 subject to and in compliance with the standards for privacy of
56 individually identifiable health information and the security standards
57 for the protection of electronic health information of the Health
58 Insurance Portability and Accountability Act of 1996, or (3) a consumer
59 reporting agency that is subject to and in compliance with the Federal
60 Credit Reporting Act, 15 USC 1681, et seq.

61 (e) The Attorney General may institute a civil proceeding in the
62 superior court against a business to enforce the provisions of this
63 section.

64 (f) Any business that violates subsection (b) or (c) of this section
65 shall be fined not more than two thousand dollars per occurrence.

66 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) As used in this section:

67 (1) "Scanning device" means a scanner, reader or any other
68 electronic device that is used to access, read, scan, obtain, memorize or
69 temporarily or permanently store information encoded on a magnetic
70 strip or stripe of a payment card.

71 (2) "Reencoder" means an electronic device that places encoded
72 information from a magnetic strip or stripe of a payment card onto a
73 magnetic strip or stripe of a different payment card.

74 (3) "Payment card" means a credit card, charge card, debit card or
75 any other card that is issued to an authorized card user and that allows
76 the user to obtain, purchase or receive goods, services, money or

77 anything else of value from a merchant.

78 (4) "Merchant" means a person who receives, from an authorized
79 user of a payment card or from someone the person reasonably
80 believes to be such an authorized user, a payment card or information
81 from a payment card or what the person reasonably believes to be a
82 payment card or information from a payment card, as an instrument
83 for obtaining, purchasing or receiving goods, services, money or
84 anything else of value from the person.

85 (b) No person shall use a scanning device to access, read, obtain,
86 memorize or temporarily or permanently store information encoded
87 on a magnetic strip or stripe of a payment card without the permission
88 of the authorized user of the payment card and with the intent to
89 defraud the authorized user, the issuer of the authorized user's
90 payment card or a merchant.

91 (c) No person shall use a reencoder to place information encoded on
92 a magnetic strip or stripe of a payment card onto a magnetic strip or
93 stripe of a different card without the permission of the authorized user
94 of the card from which the information is being reencoded and with
95 the intent to defraud the authorized user, the issuer of the authorized
96 user's payment card or a merchant.

97 (d) The Attorney General may institute a civil proceeding in
98 superior court against any person who violates subsection (b) or (c) of
99 this section.

100 (e) Any person who violates the provisions of subsection (b) or (c) of
101 this section shall be fined not more than ten thousand dollars and
102 imprisoned not less than one year or more than ten years, or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section

Statement of Legislative Commissioners:

In subdivision (3) of subsection (a) of section 1, "a person's" was deleted and subparagraph designators were added to subdivision (1) of subsection (d) of section 1 for conciseness and clarity.

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Attorney General	GF - Revenue Gain	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill places certain requirements on any business in the state with regard to the treatment of its customers' personal information. It also requires disposal companies to take reasonable measures to protect against unauthorized access to personal information. Any business that violates these provisions in the bill would be subject to civil penalties through action by the Office of the Attorney General (OAG) in superior court. The OAG could accommodate any such enforcement actions within budgeted resources.

The bill also prohibits any person from obtaining information encoded on a magnetic strip or stripe of a payment card without the permission of the authorized user and with the intent to defraud the authorized user, the issuer of the authorized user's payment card or a merchant. The bill permits the OAG to institute a civil proceeding against any person who violates these provisions and makes such activity a crime punishable by a fine of up to \$10,000 and/or imprisonment for up to 10 years. The OAG could accommodate enforcement under this provision within budgeted resources.

To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to

supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Attorney General	GF - Revenue Gain	Potential	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

OLR Bill Analysis

sHB 5694

AN ACT CONCERNING IDENTITY THEFT AND THEFT OF PERSONAL INFORMATION.

SUMMARY:

This bill requires businesses when discarding records that include a customer's personal information to take reasonable steps to ensure that they are shredded or in other ways made unreadable. Under the bill, "personal information" includes such identifying information as a signature and Social Security, bank, and credit card numbers. It also requires disposal companies to take reasonable measures to protect against unauthorized access to personal information. It exempts businesses subject to the privacy requirements of three federal laws.

In addition, the bill prohibits using (1) a scanner to read the information on a customer's payment card without permission and with the intent to defraud and (2) a reencoder to take information from a payment card and encode it on a different card without permission and with the intent to defraud.

The bill authorizes the attorney general to sue to enforce its record destruction, scanner, and reencoder provisions and sets criminal penalties for them.

EFFECTIVE DATE: October 1, 2006

RECORD DESTRUCTION

The bill requires businesses to take all reasonable steps to destroy, or arrange the destruction of, a customer's records that include his personal information that it no longer needs by shredding, erasing, or making them unreadable in other ways. The shredding, erasing, or modifying must be done with the intent to (1) ensure the security and

confidentiality of the records, (2) protect against anticipated security or integrity threats or hazards, and (3) protect against unauthorized access to the customer's personal information that could result in substantial harm or inconvenience to him.

The bill defines "business" as a sole proprietorship, partnership, corporation, association, limited liability company, or other entity, whether organized for profit or not, and including financial institutions unless exempted as described below. A "customer" is a person who provides personal information for the purpose of purchasing or leasing a product or service. "Personal information" identifies, relates to, describes, and is capable of being associated with a particular individual. It is a signature, a Social Security number, physical characteristics or description, a passport number, a driver's license or state identity card, an insurance policy number, a bank account number, a credit or debit card number, or individual financial information. A "record" is any material, regardless of form, on which there is information, which could be (1) written or spoken words, graphically depicted, or printed, or (2) electromagnetically transmitted. A record does not include publicly available directories that include information that a person has voluntarily agreed to have publicly disseminated.

Disposal Companies

The bill requires disposal companies to take all reasonable measures to dispose of records containing personal information by implementing and monitoring compliance with policies and procedures to protect against unauthorized access to or use of personal information during or after the collection, transportation, and disposal of such information.

Exemptions

The bill exempts from its record destruction provisions: (1) regulated banks and financial institutions subject to the privacy and security provisions of the federal Gramm-Leach-Bliley Act, (2) a health insurer or health care facility subject to and in compliance with privacy

standards for individually identifiable health information and the security standards for the protection of electronic health information of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and (3) a credit reporting agency subject to and in compliance with the Fair Credit Reporting Act.

Enforcement

The bill authorizes the attorney general to sue to enforce its record destruction provisions and subjects businesses found in violation to a fine of up to \$2,000 per occurrence.

SCANNERS AND REENCODERS

The bill prohibits using a scanning device to access, read, obtain, memorize, or temporarily or permanently store encoded information on a payment card's magnetic strip without the authorized user's permission and with the intent to defraud the card's authorized user, issuer, or a merchant. It also prohibits using a reencoder to take information encoded on a magnetic strip onto the strip of a different card without its holder's permission and with the intent to defraud its holder, the card issuer, or a merchant.

A "scanning device" is a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store information on a magnetic strip of a payment card. A "payment card" is a credit, charge, debit, or any card issued to an authorized user allowing him to obtain goods, services, money, or anything else of value from a merchant. A "merchant" is a person who receives a payment card from its authorized user or someone he believes to be its authorized user to obtain goods or services from the merchant.

Enforcement

The bill authorizes the attorney general to sue to enforce its scanner and reencoder provisions. A violator is subject to one to 10 years imprisonment, a fine of up to \$10,000, or both.

BACKGROUND

Gramm-Leach-Bliley Act

The Gramm-Leach-Bliley Act (P.L. 106-102) eliminates long-standing barriers to cross-ownership and affiliation among banks, security brokerage firms, and insurance companies. Title V of the act contains privacy protections for consumers when companies share consumer information. It requires banks to develop written privacy policies, disclose them to consumers, and give consumers the right to opt out of information sharing with nonaffiliated third parties.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/14/2006)