



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3743

Introduced 2/24/2005, by Rep. Rosemary Mulligan

SYNOPSIS AS INTRODUCED:

New Act

Creates the Security Breach Notification Act. Requires any person or business conducting business in the State, and that owns or licenses computerized data that includes personal information, to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any person whose unencrypted personal information was, or is reasonably believed to have been acquired by an unauthorized person. Requires any person or business that maintains computerized data that includes personal information that the person or business does not own, to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery of such breach, if the personal information was, or is reasonably believed to have been acquired by an unauthorized person. Provides that notice may be provided to a customer in one of the following ways: (1) written notice; (2) electronic notice; or (3) substitute notice if the person or business demonstrates that the cost of providing notice would exceed \$250,000, or the affected class of persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Provides a private right of action for a violation of the Act.

LRB094 11457 RXD 42382 b

1 AN ACT concerning security.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Security Breach Notification Act.

6 Section 5. Definitions. In this Act:

7 "Breach of the security of the system" means unauthorized
8 acquisition of computerized data that compromises the
9 security, confidentiality, or integrity of personal
10 information maintained by a person or business. "Breach of the
11 security of the system" does not include good faith acquisition
12 of personal information by an employee or agent of the person
13 or business, provided that the personal information is not used
14 or subject to further unauthorized disclosure.

15 "Personal information" means an individual's first name or
16 first initial and last name in combination with any one or more
17 of the following data elements, when either the name or the
18 data elements are not encrypted:

19 (1) Social security number.

20 (2) Driver's license number or Illinois State
21 Identification Card number.

22 (3) Account number, credit or debit card number, in
23 combination with any required security code, access code,
24 or password that would permit access to an individual's
25 financial account.

26 "Personal information" does not include publicly available
27 information that is lawfully made available to the general
28 public from federal, State, or local government records.

29 Section 10. Security breach; notification.

30 (a) Any person or business that conducts business in the
31 State, and that owns or licenses computerized data that

1 includes personal information, shall disclose any breach of the
2 security of the system following discovery or notification of
3 the breach in the security of the data to any person whose
4 unencrypted personal information was, or is reasonably
5 believed to have been acquired by an unauthorized person.
6 Disclosure shall be made in the most expedient time possible
7 and without unreasonable delay, consistent with the legitimate
8 needs of the law enforcement agency, as provided in subsection
9 (b), or any measures necessary to determine the scope of the
10 breach and restore the reasonable integrity of the data system.

11 (b) Any person or business that maintains computerized data
12 that includes personal information that the person or business
13 does not own, shall notify the owner or licensee of the
14 information of any breach of the security of the data
15 immediately following discovery, if the personal information
16 was, or is reasonably believed to have been acquired by an
17 unauthorized person.

18 (1) Notice may be provided by one of the following
19 methods:

20 (A) written notice;

21 (B) electronic notice, if the notice provided is
22 consistent with the provisions regarding electronic
23 records and signatures set forth in Section 7001 of
24 Title 15 of the United States Code; or

25 (C) substitute notice, if the person or business
26 demonstrates that the cost of providing notice would
27 exceed \$250,000, or the affected class of persons to be
28 notified exceeds 500,000, or the person or business
29 does not have sufficient contact information.
30 Substitute notice shall consist of all of the
31 following: (i) email notification if the person or
32 business has an email address for the person to be
33 notified; (ii) conspicuous posting of the notice on the
34 web site page of the person or business, if the person
35 or business maintains a web site page; and (iii)
36 notification to major statewide media outlets.

1 (2) The notification required by this subsection (b)
2 may be delayed if a law enforcement agency determines that
3 the notification will impede a criminal investigation.
4 Notification shall be made after the law enforcement agency
5 determines that it will not compromise its investigation.

6 Section 15. Notification; compliance. Notwithstanding
7 subsection (b) of Section 10, a person or business that
8 maintains its own notification procedures as part of an
9 information security policy for the treatment of personal
10 information and is otherwise consistent with the timing
11 requirements of this Act, shall be deemed to be in compliance
12 with the notification requirements provided under Section 10 of
13 this Act if the person or business notifies persons in
14 accordance with its policies in the event of a breach of
15 security of the system.

16 Section 20. Waiver. Any waiver of the provisions of this
17 Act is contrary to public policy and is void and unenforceable.

18 Section 25. Penalty.

19 (a) Any customer injured by a violation of this Act may
20 institute a civil action to recover damages.

21 (b) Any individual personally affected by repeated
22 violations may institute, in a circuit court, an action to
23 enjoin violations of this Act.

24 (c) The rights and remedies available under this Section
25 are cumulative to each other and to any other rights and
26 remedies available under law.