

By: McCall

H.B. No. 698

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the disposal of certain business records that contain
3 personal identifying information; providing a civil penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Section 35.48, Business &
6 Commerce Code, is amended to read as follows:

7 Sec. 35.48. RETENTION AND DISPOSAL OF BUSINESS RECORDS.

8 SECTION 2. Section 35.48(a), Business & Commerce Code, is
9 amended by adding Subdivisions (1-a) and (3) to read as follows:

10 (1-a) "Personal identifying information" means
11 information that alone or in conjunction with other information
12 identifies an individual, living or dead. The term includes an
13 individual's:

14 (A) name, date of birth, or social security
15 number or other government-issued identification number;

16 (B) mother's maiden name;

17 (C) unique biometric data, including the
18 individual's fingerprint, voice print, and retina or iris image;

19 (D) unique electronic identification number,
20 address, or routing code;

21 (E) telecommunication access device, including
22 debit and credit card information;

23 (F) financial institution account number or any
24 other financial information; and

1 (G) telephone number.

2 (3) "Telecommunication access device" has the meaning
3 assigned by Section 32.51, Penal Code.

4 SECTION 3. Section 35.48, Business & Commerce Code, is
5 amended by adding Subsections (d) and (e) to read as follows:

6 (d) A business that disposes of a business record that
7 contains personal identifying information of a customer of the
8 business shall modify, by shredding, erasing, or other means, the
9 personal identifying information to make it unreadable or
10 undecipherable.

11 (e) A business that does not dispose of a business record of
12 a customer in the manner required by Subsection (d) is liable for a
13 civil penalty of up to \$1,000 for each record. The attorney general
14 may bring an action against the business to:

15 (1) recover the civil penalty;

16 (2) obtain any other remedy, including injunctive
17 relief; and

18 (3) recover costs and reasonable attorney's fees
19 incurred in bringing the action.

20 SECTION 4. This Act applies to the disposal of business
21 records without regard to whether the records were created before,
22 on, or after the effective date of this Act.

23 SECTION 5. This Act takes effect September 1, 2005.