

AN ACT

relating to the adoption of a privacy policy by a person who requires the disclosure of an individual's social security number; providing a civil penalty.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.581 to read as follows:

Sec. 35.581. PRIVACY POLICY NECESSARY TO REQUIRE DISCLOSURE OF SOCIAL SECURITY NUMBER. (a) A person may not require an individual to disclose the individual's social security number to obtain goods or services from or enter into a business transaction with the person, unless the person:

(1) adopts a privacy policy;

(2) makes the privacy policy available to the individual; and

(3) maintains under the privacy policy the confidentiality and security of a social security number disclosed to the person.

(b) A privacy policy adopted under this section must include how personal information is collected, how and when the personal information is used, how the personal information is protected, who has access to the personal information, and how the personal information is disposed.

(c) This section does not apply to:

1 (1) a person who is required to maintain and
2 disseminate a privacy policy under the Gramm-Leach-Bliley Act (15
3 U.S.C. Sections 6801 to 6809), the Family Educational Rights and
4 Privacy Act (20 U.S.C. Section 1232g), or the Health Insurance
5 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
6 et seq.);

7 (2) a covered entity under rules adopted by the
8 commissioner of insurance relating to insurance consumer health
9 information privacy or insurance consumer financial information
10 privacy;

11 (3) a governmental body, as defined by Section
12 552.003, Government Code, other than a municipally owned utility;
13 or

14 (4) a person with respect to a loan transaction, if the
15 person is not engaged in the business of making loans.

16 (d) A person who violates Subsection (a) is liable to the
17 state for a civil penalty in an amount not to exceed \$500 for each
18 calendar month during which a violation occurs. The civil penalty
19 may not be imposed for more than one violation that occurs in a
20 month. The attorney general or the prosecuting attorney in the
21 county in which the violation occurs may bring suit to recover the
22 civil penalty imposed under this section.

23 (e) The attorney general may bring an action in the name of
24 the state to restrain or enjoin a person from violating Subsection
25 (a).

26 SECTION 2. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1130 was passed by the House on April 13, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1130 on May 16, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1130 was passed by the Senate, with amendments, on May 12, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor