

By: Rodriguez

H.B. No. 1527

A BILL TO BE ENTITLED

AN ACT

relating to a breach in the security of a data system that includes another person's identifying information.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 50 to read as follows:

CHAPTER 50. DISCLOSURES RELATING TO MAINTENANCE OF ANOTHER PERSON'S IDENTIFYING INFORMATION

Sec. 50.001. DEFINITIONS. In this chapter, "identifying information" has the meaning assigned by Section 32.51, Penal Code.

Sec. 50.002. BREACH OF SECURITY OF DATA SYSTEM. (a) For purposes of this chapter, a breach in the security of a person's data system is considered to have occurred when there is unauthorized access to data stored in the system, in electronic storage or otherwise, that compromises the security, confidentiality, or integrity of identifying information maintained by the person.

(b) Good faith acquisition of identifying information by an employee or agent of the person is not considered to be a breach in the security of the person's data system for purposes of this chapter if the identifying information is not used or subject to further unauthorized disclosure.

Sec. 50.003. NOTIFICATION OF SECURITY BREACH. (a) A person that owns or licenses data, in computerized form or otherwise, that

1 includes identifying information of a resident of this state must  
2 promptly notify the resident of any alleged breach of the security  
3 of the person's data system, regardless of whether the resident's  
4 identifying information has been accessed by an unauthorized  
5 person.

6 (b) A person maintaining computerized data that includes  
7 identifying information that the person does not own shall promptly  
8 notify the owner or licensee of the information of any breach of the  
9 security of the person's data system.

10 (c) The person must provide the notification required by  
11 this section in writing except as provided by Subsection (d) or (e).

12 (d) A person that provides notice under this section in  
13 accordance with notification procedures developed and maintained  
14 by the person pursuant to a security policy for the handling of  
15 identifying information the person maintains is considered to have  
16 complied with the notice requirements of this section if the  
17 procedures are not inconsistent with the timing requirements of  
18 this section.

19 (e) If the cost of providing written notice under this  
20 section to all affected individuals would exceed \$250,000 or the  
21 number of affected individuals is more than 500,000, the person may  
22 provide for that notification by:

23 (1) sending an electronic mail message to an  
24 individual's electronic mail address;

25 (2) posting a conspicuous statement of the occurrence  
26 of the breach on the person's website; or

27 (3) notifying print or electronic media statewide that

1 a breach in the security of the person's data system has occurred.

2 (f) The notification required by this section may be delayed  
3 at the request of a law enforcement agency conducting a criminal  
4 investigation until the time that the law enforcement agency  
5 determines that providing the notice will not impede the criminal  
6 investigation.

7 Sec. 50.004. APPLICABILITY. This chapter does not apply to  
8 a person who maintains federal, state, or local government records  
9 containing identifying information that are made available to the  
10 public.

11 Sec. 50.005. PRIVATE CAUSE OF ACTION. (a) A person injured  
12 by a violation of this chapter may bring an action to:

13 (1) recover actual damages; or

14 (2) enjoin a continued violation of this chapter.

15 (b) A person who prevails in an action filed under this  
16 section is entitled to recover court costs and reasonable  
17 attorney's fees.

18 Sec. 50.006. REMEDIES CUMULATIVE. The remedies provided by  
19 this chapter are cumulative of any other remedy provided by law.

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