

By: Elkins, Flynn, Berman, Bonnen

H.B. No. 345

Substitute the following for H.B. No. 345:

By: Quintanilla

C.S.H.B. No. 345

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a business's duty to protect sensitive personal
3 information contained in its customer records.

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

5 SECTION 1. Section 521.052, Business & Commerce Code, is
6 amended to read as follows:

7 Sec. 521.052. BUSINESS DUTY TO PROTECT SENSITIVE PERSONAL
8 INFORMATION. (a) In this section, "access device" means a card or
9 device issued by a financial institution that contains a magnetic
10 stripe, microprocessor chip, or other means for storing
11 information. The term includes a credit card, debit card, or stored
12 value card.

13 (b) A business shall implement and maintain reasonable
14 procedures, including taking any appropriate corrective action, to
15 protect from unlawful use or disclosure any sensitive personal
16 information collected or maintained by the business in the regular
17 course of business.

18 (c) [~~(b)~~] A business shall destroy or arrange for the
19 destruction of customer records containing sensitive personal
20 information within the business's custody or control that are not
21 to be retained by the business by:

22 (1) shredding;

23 (2) erasing; or

24 (3) otherwise modifying the sensitive personal

1 information in the records to make the information unreadable or
2 indecipherable through any means.

3 (d) A business that stores sensitive personal information
4 derived from an access device shall reasonably protect the
5 sensitive personal information against unauthorized access or use.

6 (e) [~~(e)~~] This section does not apply to a financial
7 institution as defined by 15 U.S.C. Section 6809.

8 SECTION 2. Section 521.151, Business & Commerce Code, is
9 amended by adding Subsection (a-1) to read as follows:

10 (a-1) If a violation of Section 521.052(d) results in a
11 breach of system security, as defined by Section 521.053, the
12 attorney general in bringing an action under Subsection (a) may
13 seek any order or judgment necessary to compensate a financial
14 institution for actual damages resulting from the violation,
15 including reasonable costs incurred by the financial institution in
16 connection with:

17 (1) the cancellation and reissuance of an access
18 device affected by the breach;

19 (2) the closing of an account affected by the breach
20 and any action to stop payment or block a transaction with respect
21 to the account;

22 (3) the opening or reopening of an account affected by
23 the breach;

24 (4) a refund or credit made to an account holder to
25 cover the cost of any unauthorized transaction related to the
26 breach; and

27 (5) the notification of account holders affected by

1 the breach.

2 SECTION 3. This Act takes effect January 1, 2011.