

Amendments to House Bill No. 732
3rd Reading Copy

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
April 1, 2005 (3:36pm)

1. Title, page 1, line 6.

Strike: "OR EXPUNGE"

2. Title, page 1, lines 10 through 12.

Strike: "REQUIRING" on line 10 through "CUSTOMER;" on line 12**Strike:** "REMEDIES AND" on line 12

3. Title, page 1, line 13.

Strike: "AN"

4. Title, page 1, line 14.

Strike: "DATE"**Insert:** "DATES"

5. Page 1, line 23 through line 24.

Strike: "must" through "45-6-332"**Insert:** "shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, pursuant to 15 U.S.C. 1681c-2"

6. Page 1, line 29.

Following: "mailed"**Insert:** ", as provided in [section 3]"

7. Page 2, line 22.

Strike: "2006"**Insert:** "2005"

8. Page 4, line 3.

Strike: "9"**Insert:** "8"

9. Page 4, line 6.

Strike: "9"

Insert: "8"

10. Page 4, line 8.

Following: "(1)"

Insert: "(a)"

11. Page 4, line 12.

Following: "records."

Insert: "The term also includes industries regulated by the public service commission or under Title 30, chapter 10.

(b) The term does not include industries regulated under Title 33, chapter 19."

12. Page 4, lines 16 through 20.

Strike: "any" on line 16 through "information." on line 20

Insert: "an individual's name, signature, address, or telephone number, in combination with one or more additional pieces of information about the individual, consisting of the individual's passport number, driver's license or state identification number, insurance policy number, bank account number, credit card number, debit card number, passwords or personal identification numbers required to obtain access to the individual's finances, or any other financial information as provided by rule. A social security number, in and of itself, constitutes personal information."

13. Page 4, line 21.

Following: "on which"

Insert: "personal"

14. Page 4, lines 22 through 23.

Strike: "or preserved" on line 22 through "transmitted" on line 23

15. Page 4, line 24.

Following: "containing"

Insert: "personal"

16. Page 4, line 30 through page 5, line 1.

Strike: "through any" on page 4, line 30 through "means" on page 5, line 1

17. Page 5, line 7.

Strike: "in the most expedient time possible and"

18. Page 5, line 9.

Following: "(3), or"

Insert: "consistent with"

19. Page 5, line 16.

Following: "investigation"

Insert: "and requests a delay in notification"

20. Page 5, lines 18 through 19.

Following: "section," on line 18

Strike: remainder of line 18 through "(a)" on line 19

Strike: "Breach"

Insert: "breach"

21. Page 5, line 20.

Following: "that"

Insert: "materially"

22. Page 5, line 21.

Following: the first "business"

Insert: "and causes or is reasonably believed to cause loss or injury to a Montana resident"

23. Page 5, line 24 through page 6, line 2.

Strike: subsection (4)(b) in its entirety

24. Page 6, line 6.

Strike: "or"

25. Page 6.

Following: line 6

Insert: "(iii) telephonic notice; or"

Renumber: subsequent subsection

26. Page 6, line 11.

Strike: "all of"

27. Page 6, line 13.
Following: "persons;"
Insert: "and"

28. Page 6, line 15.
Strike: "and"
Insert: "or"

29. Page 6, line 16.
Strike: "major"
Insert: "applicable local or"

30. Page 6, lines 18 through 19.
Following: "and that" on line 18
Strike: remainder of line 18 through "9]" on line 19
Insert: "does not unreasonably delay notice"

31. Page 6.
Following: line 21
Insert: "(7) If a business discloses a security breach to any individual pursuant to this section and gives a notice to the individual that suggests, indicates, or implies to the individual that the individual may obtain a copy of the file on the individual from a consumer credit reporting agency, the business shall coordinate with the consumer reporting agency as to the timing, content, and distribution of the notice to the individual. The coordination may not unreasonably delay the notice to the affected individuals."

32. Page 6, line 23 through page 15, line 22.
Strike: section 8 through section 9 in their entirety
Insert: "NEW SECTION. **Section 8. Department to restrain unlawful acts -- penalty.** (1) Whenever the department has reason to believe that a person has violated [sections 2 through 8] and that proceeding would be in the public interest, the department may bring an action in the name of the state against the person to restrain by temporary or permanent injunction or temporary restraining order the use of the unlawful method, act, or practice upon giving appropriate notice to that person, pursuant to 30-14-111(2).

(2) The provisions of 30-14-111(3) and (4) and 30-14-112 through 30-14-115 apply to [sections 2 through 8].

(3) A violation of [sections 2 through 8] is a violation of 30-14-103, and the penalties for a violation of [sections 2 through 8] are as provided in 30-14-142."

Insert: "NEW SECTION. Section 9. Computer security breach.

(1) Any licensee or insurance-support organization that conducts business in Montana and that owns or licenses computerized data that includes personal information shall provide notice of any breach of the security of the system following discovery or notice of the breach of the security of the system to any individual whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The notice must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person to whom personal information is disclosed in order for the person to perform an insurance function pursuant to this part that maintains computerized data that includes personal information shall notify the licensee or insurance support organization of any breach of the security of the system in which the data is maintained immediately following discovery of the breach of the security of the system if the personal information was or is reasonably believed to have been acquired by an unauthorized person.

(3) The notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and requests a delay of notice. The notice required by this section must be made after the law enforcement agency determines that the notice will not compromise the investigation.

(4) Licensees, insurance-support organizations, and persons to whom personal information is disclosed pursuant to this part shall develop and maintain an information security policy for the safeguarding of personal information and security breach notice procedures that provide expedient notice to individuals as provided in subsection (1).

(5) For purposes of this section, the following definitions apply:

(a) "Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a licensee, insurance-support organization, or person to whom information is disclosed pursuant to this part. Acquisition of personal information by a licensee, insurance-support organization, or employee or agent of a person as authorized pursuant to this part is not a breach of the security of the system.

(b) (i) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name and the data elements are not encrypted:

(A) social security number;
(B) driver's license number or state identification number;
(C) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

33. Page 15, line 24.

Following: "instruction."

Insert: "(1)"

Strike: "9"

Insert: "8"

34. Page 15, line 25.

Strike: "part 1," in two places

35. Page 15, line 26.

Strike: "9"

Insert: "8"

36. Page 15.

Following: line 26

Insert: "(2) [Section 9] is intended to be codified as an integral part of Title 33, chapter 19, part 3, and the provisions of Title 33, chapter 19, part 3, apply to [section 9]."

37. Page 16, line 2.

Following: "date."

Insert: "(1)"

Strike: "[This act]"

Insert: "Except as provided in subsection (2), [this act]"

Strike: "July 1, 2005."

Insert: "March 1, 2006."

(2) [Sections 1, 10, and 11 and this section] are effective on passage and approval."

- END -