

H.B. NO. 2311

A BILL FOR AN ACT

RELATING TO FOUND ELECTRONIC DEVICES.

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

1 SECTION 1. The information privacy and security council,
2 administratively attached to the department of accounting and
3 general services, was established by Act 10, Special Session
4 Laws of Hawaii 2008, as codified into law under section 487N-5,
5 Hawaii Revised Statutes, to develop guidelines to be considered
6 by government agencies in deciding whether, how, and when a
7 government agency shall inform affected individuals of the loss,
8 disclosure, or security breach of personal information that can
9 contribute to identity theft. Personal information is defined in
10 section 487N-1, Hawaii Revised Statutes, as "an individual's
11 first name or first initial and last name in combination with
12 any one or more of the following data elements, when either the
13 name or the data elements are not encrypted:

- 14 (1) Social security number;
- 15 (2) Driver's license number or Hawaii identification card
16 number; or

1 (3) Account number, credit or debit card number, access
2 code, or password that would permit access to an
3 individual's financial account."

4 Currently, some local and state government agencies,
5 including county law enforcement, are required under sections
6 52D-14 and 261-17.7, Hawaii Revised Statutes, to provide
7 unclaimed property to finders after forty-five days. Given that
8 cell phones, computers, and other such electronic devices may
9 contain personal information, the council recommends that Hawaii
10 state law be amended to keep pace with technology so that
11 personal information is protected.

12 The purpose of this Act is to protect the personal
13 information of individuals by providing county police
14 departments and the department of transportation the authority
15 to sanitize unclaimed electronic devices, in accordance with
16 recognized standards and guidelines, before providing the
17 unclaimed property to finders or disposing of the property by
18 public auction or other means.

19 SECTION 2. Section 52D-14, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§52D-14[+] **Duty and right of finders.** (a) Except as
22 provided in section 261-17.7, all money or property found shall
23 be reported or delivered by the finder to the chief of police of

1 the county. When so delivered, it shall be held by the chief of
2 police for forty-five days or until claimed by some person who
3 establishes title or right of custody thereto to the
4 satisfaction of the chief of police. If title or right of
5 custody is established, the money or property shall be delivered
6 to the claimant by the chief of police.

7 (b) If no claim is made or no such right is established
8 within the forty-five days, the money or property shall be
9 returned to the person who delivered it to the chief of
10 police[?], except as provided in subsection (c); provided that
11 if the person who delivered it to the chief of police fails to
12 claim the money or property within thirty days after being
13 notified by the chief of police that the person is entitled to
14 possession, the chief of police shall dispose of the money or
15 property in accordance with the procedures established in
16 section 52D-10. For the purpose of this section, notice by
17 regular mail to the person's last known address shall be
18 sufficient.

19 (c) Prior to being returned to the finder or disposal by
20 public auction or other means, an electronic device that allows
21 for storage of personal information, as defined by section 487N-
22 1, shall be sanitized in accordance with guidance provided by
23 the information privacy and security council to ensure removal

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1 of personal information prior to returning the device to the
2 finder. If removal of personal information is not possible or
3 cannot be verified without unreasonable expense, the device
4 shall be destroyed in a manner sufficient to eliminate the
5 information, prior to disposal or recycling. The chief of
6 police shall make reasonable efforts to notify the finder that
7 the device was destroyed and disposed of or recycled because
8 personal information could not be removed."

9 SECTION 3. Section 261-17.7, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§261-17.7 Lost and found money or property at airports.**

12 (a) All money or property found at an airport owned or
13 controlled by the department shall be reported or delivered by
14 the finder to the airport lost and found, and when so delivered
15 shall be held by the department for forty-five days or until
16 claimed by some person who establishes title or right of custody
17 thereto to the satisfaction of the department. In the event of
18 the establishment of title or right of custody, the money or
19 property shall be delivered to the claimant by the director or
20 the director's agent. If within forty-five days no claimant
21 establishes a right to the money or property, the money or
22 property, except as provided in subsection (d) with regard to
23 electronic devices, shall be returned to the person who

1 delivered it to the airport lost and found; provided that if the
2 person who delivered it to the airport lost and found fails to
3 claim the money or property within thirty days after being
4 notified by the director, the director shall deposit the money
5 into the state treasury to the credit of the airport revenue
6 fund or shall dispose of the property by public auction.

7 (b) At least once annually, the director shall give public
8 notice giving details as to time and place of the auction and
9 giving notice to all persons interested or claiming the property
10 that unless claims are made by persons who can provide
11 satisfactory proof of ownership before a specified date, the
12 property will be sold at public auction to the highest bidder.
13 On the day and at the place specified in the notice, all
14 property for which no satisfactory proof of ownership is made
15 shall be sold by auction by or under the direction of the
16 director.

17 If any property which is of a perishable nature or
18 unreasonably expensive to keep or safeguard remains unclaimed at
19 the airport, the director may sell that property at public
20 auction, at a time and after notice that is reasonable under the
21 circumstances. The director shall immediately after the sale of
22 any property pay to the airport revenue fund all moneys received
23 by the director upon sale.

1 (c) For the purpose of this section, notice by regular
2 mail to the last known address of the person who delivered the
3 money or property to the airport lost and found shall be deemed
4 sufficient.

5 (d) Prior to being returned to the finder or disposal by
6 public auction or other means, an electronic device that allows
7 for storage of personal information, as defined by section 487N-
8 1, shall be sanitized by the director or the director's agent in
9 accordance with guidance provided by the information privacy and
10 security council to ensure removal of personal information prior
11 to returning the device to the finder or disposal by public
12 auction or other means. If removal of personal information is
13 not possible or cannot be verified without unreasonable expense,
14 the device shall be destroyed in a manner sufficient to
15 eliminate the information, prior to disposal or recycling. The
16 director or the director's agent shall make reasonable efforts
17 to notify the finder that the device was destroyed and disposed
18 of or recycled because personal information could not be
19 removed."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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Report Title:

Protection of Personal Information on Unclaimed Electronic Devices

Description:

Clarifies that found electronic devices that may contain personal information shall be sanitized before providing the unclaimed property to finders or disposing of the property by public auction or other means.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO FOUND ELECTRONIC DEVICES.

PURPOSE: The purpose of this Act is to protect the personal information of individuals by providing county police departments and the Department of Transportation the authority to sanitize unclaimed electronic devices, in accordance with guidance provided by the Information Privacy and Security Council, before providing the unclaimed property to finders.

MEANS: Amend sections 52D-14 and 261-17.7, Hawaii Revised Statutes.

JUSTIFICATION: Some local and state government agencies, including county law enforcement, are currently required under sections 52D-14 and 261-17.7 to provide unclaimed property to finders after forty-five days. Given that cell phones, computers and other such electronic devices may contain personal information, the Information Privacy and Security Council recommends that Hawaii state law be amended to keep pace with technology so that personal information is protected.

Impact on the public: The public's personal information that may be found on unclaimed electronic devices will be protected.

Impact on the department and other agencies: Empowers law enforcement to take necessary steps to sanitize electronic devices that may contain personal information before providing the unclaimed property to finders.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

AGS130, AGS131.

OTHER AFFECTED
AGENCIES:

County police departments and the Department of Transportation, which are currently required to provide unclaimed property to finders after the forty-five days.

EFFECTIVE DATE:

Upon approval.