
A BILL FOR AN ACT

RELATING TO PRIVACY.

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

1 SECTION 1. The legislature finds that House Concurrent
2 Resolution No. 225, H.D. 1, S.D. 1, regular session of 2019
3 (H.C.R. No. 225), convened the twenty-first century privacy law
4 task force, whose membership consisted of individuals in
5 government and the private sector having an interest or
6 expertise in privacy law in the digital era. H.C.R. No. 225
7 found that public use of the Internet and related technologies
8 have significantly expanded in recent years and that a lack of
9 meaningful government regulation has resulted in personal
10 privacy being compromised. Accordingly, the legislature
11 requested that the task force examine and make recommendations
12 regarding existing privacy laws and rules to protect the privacy
13 interests of the people of the State.

14 The legislature further finds that, following significant
15 inquiry and discussion, the task force recommended that the
16 outdated definition of "personal information" in chapter 487N,
17 Hawaii Revised Statutes, which requires the public to be



1 notified of data breaches, should be updated and expanded. Many
2 identifying data elements relating to individuals are collected,
3 and, when exposed to the public in a data breach, can place an
4 individual at risk of identity theft or may compromise the
5 individual's personal safety. In its existing form,
6 chapter 487N, Hawaii Revised Statutes, is not comprehensive
7 enough to cover the additional identifiers.

8 Accordingly, the purpose of this Act is to update the
9 definition of "personal information" in chapter 487N, Hawaii
10 Revised Statutes, to include personal identifiers and specified
11 data elements that are found in more comprehensive laws.

12 SECTION 2. Section 487N-1, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By adding two new definitions to be appropriately
15 inserted and to read:

16 "Identifier" means a common piece of information related
17 specifically to an individual that is commonly used to identify
18 the individual across technology platforms, including:

19 (1) A name used by an individual, including the
20 combination of the first name, any initials in the



- 1 name, whether at the beginning or middle of the name,
2 or a nickname combined with the last name;
- 3 (2) A user name for an online account;
4 (3) A mobile or home phone number; or
5 (4) An electronic mail address specific to the individual.
- 6 "Specified data element" means any of the following:
- 7 (1) An individual's social security number, either in its
8 entirety or the last four or more digits;
- 9 (2) Driver's license number, federal or state
10 identification card number, or passport number;
- 11 (3) A federal individual taxpayer identification number;
12 (4) A military identification number;
- 13 (5) An individual's financial account number, or credit or
14 debit card number, unless redacted;
- 15 (6) A security code, access code, personal identification
16 number, or password that would allow access to an
17 individual's account;
- 18 (7) Unique biometric data generated from a measurement or
19 analysis of human body characteristics used for
20 authentication purposes, including a fingerprint,



- 1 voice print, retina or iris image, or other unique
- 2 physical or digital representation of biometric data;
- 3 (8) A private key that is unique to an individual and is
- 4 used to authenticate or sign an electronic record; and
- 5 (9) Health insurance policy number, subscriber
- 6 identification number, medical identification number,
- 7 or any other unique number used by a health insurer to
- 8 identify a person.

9 "Specified data element" does not include medical information
 10 that is protected by the Health Insurance Portability and
 11 Accountability Act of 1996 and its enacting regulations or other
 12 applicable federal or state law."

13 2. By amending the definition of "personal information" to
 14 read:

15 ""Personal information" means an [~~individual's first name~~
 16 ~~or first initial and last name~~] identifier in combination with
 17 [any] one or more [~~of the following~~] specified data elements,
 18 when either the [~~name~~] identifier or the specified data elements
 19 are not encrypted[+]

20 ~~(1) Social security number;~~



- 1 ~~(2) Driver's license number or Hawaii identification card~~
- 2 ~~number; or~~
- 3 ~~(3) Account number, credit or debit card number, access~~
- 4 ~~code, or password that would permit access to an~~
- 5 ~~individual's financial account].~~

6 "Personal information" does not include publicly available
 7 information that is lawfully made available to the general
 8 public [~~from federal, state, or local government records~~]."

9 SECTION 3. Section 487N-2, Hawaii Revised Statutes, is
 10 amended by amending subsection (g) to read as follows:

11 "(g) The following businesses shall be deemed to be in
 12 compliance with this section:

- 13 (1) A financial institution that is subject to the federal
- 14 Interagency Guidance on Response Programs for
- 15 Unauthorized Access to Customer Information and
- 16 Customer Notice published in the Federal Register on
- 17 March 29, 2005, by the Board of Governors of the
- 18 Federal Reserve System, the Federal Deposit Insurance
- 19 Corporation, the Office of the Comptroller of the
- 20 Currency, and the Office of Thrift Supervision, or
- 21 subject to title 12 [C.F.R. Part] Code of Federal



1 Regulations part 748, and any revisions, additions, or
2 substitutions relating to the interagency guidance;
3 ~~and~~

4 (2) Any health plan or ~~[healthcare]~~ health care provider
5 that is subject to and in compliance with the
6 standards for privacy or individually identifiable
7 health information and the security standards for the
8 protection of electronic health information of the
9 Health Insurance Portability and Accountability Act of
10 1996~~[.]~~; and

11 (3) Any telecommunications carrier that is subject to and
12 in compliance with title 47 United States Code section
13 222 and title 47 Code of Federal Regulations part 64."

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Privacy; Personal Information; Security Breach; Notice;
Identifier; Specified Data Element

Description:

Adds definitions of "identifier" and "specified data element" and amends the definition of "personal information" for the purposes of notifying affected persons of data and security breaches under the State's data breach notification law. Includes telecommunications carriers subject to and in compliance with certain federal provisions among the businesses deemed compliant with this law. Effective 7/1/3000. (HD1)

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