Senate Bill 230

By: Senators Hamrick of the 30th, Grant of the 25th and Mullis of the 53rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1   To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling

2   and other trade practices, so as to provide legislative findings; to provide definitions; to

3   require investigative consumer reporting agencies to give notice to consumers of certain

4   security breaches; to provide for related matters; to provide an effective date; to repeal

5   conflicting laws; and for other purposes.

6   BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7   **SECTION 1.**

8   Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other

9   trade practices, is amended by adding a new Article 34 to read as follows:

10   "ARTICLE 34

11   10-1-910.

12   The General Assembly finds and declares as follows:

13   (1) The privacy and financial security of individuals is increasingly at risk due to the ever

14   more widespread collection of personal information by both the private and public

15   sectors;

16   (2) Credit card transactions, magazine subscriptions, telephone numbers, real estate

17   records, automobile registrations, consumer surveys, warranty registrations, credit

18   reports, and Internet websites are all sources of personal information and form the source

19   material for identity thieves;

20   (3) Identity theft is one of the fastest growing crimes committed in this state. Criminals

21   who steal personal information such as social security numbers use the information to

22   open credit card accounts, write bad checks, buy cars, and commit other financial crimes

23   with other people´s identities;

24   (4) Identity theft is costly to the marketplace and to consumers; and

1   (5) Victims of identity theft must act quickly to minimize the damage; therefore,

2   expeditious notification of possible misuse of a person´s personal information is

3   imperative.

4   10-1-911.

5   As used in this article, the term:

6   (1) 'Breach of the security of the system' means unauthorized acquisition of a

7   individual´s file or computerized data that compromises the security, confidentiality, or

8   integrity of personal information of such individual maintained by an investigative

9   consumer reporting agency. Good faith acquisition of personal information by an

10   employee or agent of an investigative consumer reporting agency for the purposes of the

11   agency is not a breach of the security of the system, provided that the personal

12   information is not used or subject to further unauthorized disclosure.

13   (2) 'File,' when used in connection with information on any individual, means all of the

14   information on that individual recorded and retained by an investigative consumer

15   reporting agency regardless of how the information is stored.

16   (3) 'Investigative consumer reporting agency' means any person or entity who, for

17   monetary fees or dues, engages in whole or in part in the practice of collecting,

18   assembling,   evaluating,   compiling,   reporting,   transmitting,   transferring,   or

19   communicating information concerning individuals for the purposes of furnishing

20   investigative consumer reports to third parties, but does not include any governmental

21   agency whose records are maintained primarily for traffic safety, law enforcement, or

22   licensing purposes.

23   (4) 'Notice' means:

24   (A) Written notice;

25   (B) Electronic notice, if the notice provided is consistent with the provisions regarding

26   electronic records and signatures set forth in Section 7001 of Title 15 of the United

27   States Code; or

28   (C) Substitute notice, if the investigative consumer reporting agency demonstrates that

29   the cost of providing notice would exceed $250,000.00, that the affected class of

30   individuals to be notified exceeds 500,000, or that the investigative consumer reporting

31   agency does not have sufficient contact information to provide written or electronic

32   notice to such individuals. Substitute notice shall consist of all of the following:

33   (i) E-mail notice, if the investigative consumer reporting agency has an e-mail

34   address for the individuals to be notified;

35   (ii) Conspicuous posting of the notice on the investigative consumer reporting

36   agency´s website page, if the agency maintains one; and

1   (iii) Notification to major state-wide media.

2   Notwithstanding any provision of this paragraph to the contrary, an investigative

3   consumer reporting agency that maintains its own notification procedures as part of an

4   information security policy for the treatment of personal information and is otherwise

5   consistent with the timing requirements of this article shall be deemed to be in

6   compliance with the notification requirements of this article if it notifies the individuals

7   who are the subjects of the notice in accordance with its policies in the event of a breach

8   of the security of the system.

9   (5) 'Person' means any individual, partnership, corporation, limited liability company,

10   trust, estate, cooperative, association, or other entity. The term 'person' as used in this

11   article shall not be construed to require duplicative reporting by any individual,

12   corporation, trust, estate, cooperative, association, or other entity involved in the same

13   transaction.

14   (6) 'Personal information' means an individual´s first name or first initial and last name

15   in combination with any one or more of the following data elements, when either the

16   name or the data elements are not encrypted:

17   (A) Social security number;

18   (B)   Driver´s license number of an individual or number of an individual´s

19   identification card issued pursuant to Article 5 of Chapter 5 of Title 40; or

20   (C) Account number, credit card number, or debit card number, in combination with

21   any required security code, access code, or password that would permit access to an

22   individual´s financial account.

23   The term 'personal information' does not include publicly available information that is

24   lawfully made available to the general public from federal, state, or local government

25   records.

26   10-1-912.

27   (a)   Any investigative consumer reporting agency that owns or licenses files or

28   computerized data that includes personal information of individuals shall give notice of any

29   breach of the security of the system following discovery or notification of the breach in the

30   security of the data to any resident of this state whose unencrypted personal information

31   or file was, or is reasonably believed to have been, acquired by an unauthorized person.

32   The notice shall be made in the most expedient time possible and without unreasonable

33   delay, consistent with the legitimate needs of law enforcement, as provided in subsection

34   (c) of this Code section, or any measures necessary to determine the scope of the breach

35   and restore the reasonable integrity of the data system.

1   (b) Any investigative consumer reporting agency that maintains computerized data that

2   includes personal information of individuals that the investigative consumer reporting

3   agency does not own shall notify the owner or licensee of the information of any breach

4   of the security of the data immediately following discovery, if the personal information

5   was, or is reasonably believed to have been, acquired by an unauthorized person.

6   (c) The notification required by this Code section may be delayed if a law enforcement

7   agency determines that the notification will impede a criminal investigation. The

8   notification required by this Code section shall be made after the law enforcement agency

9   determines that it will not compromise the investigation.

10   (d) The duty of an investigative consumer reporting agency to disclose a breach of the

11   security of the system under this Code section shall apply to all such breaches occurring

12   on and after the effective date of this article and any breaches that occurred within six

13   months immediately prior to the effective date of this article."

14   **SECTION 2.**

15   This Act shall become effective upon its approval by the Governor or upon its becoming law

16   without such approval.

17   **SECTION 3.**

18   All laws and parts of laws in conflict with this Act are repealed.