

Senate Bill 455

By: Senators Shafer of the 48th and Wiles of the 37th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to invasions of privacy, so as to define certain terms; to provide that it shall be illegal  
3 for a customer proprietary network information broker to obtain or release certain customer  
4 information; to provide for penalties; to provide for exceptions; to amend Code Section  
5 43-38-11 of the Official Code of Georgia Annotated, relating to denial, revocation, or  
6 sanction of licenses and registrations, action by the Georgia Board of Private Detective and  
7 Security Agencies, and judicial review, so as to provide that it shall be grounds for such  
8 board to deny or revoke a license if the applicant has obtained certain customer information;  
9 to amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to  
10 telephone and telegraph service, so as to define certain terms; to provide that no  
11 telecommunications company may release certain customer information; to provide for rules  
12 and regulations; to provide for exceptions; to provide for action in the event of a breach of  
13 security; to provide for customer notification; to provide that any waiver of such protections  
14 is void; to provide that a violation of such provisions shall be an unfair or deceptive practice  
15 in consumer transactions; to provide for an effective date; to provide for related matters; to  
16 repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to  
20 invasions of privacy, is amended by inserting at the end thereof a new Code section to read  
21 as follows:

22 "16-11-70.

23 (a) As used in this Code section, the term:

24 (1) 'Customer proprietary network information' means information:

25 (A) Maintained by a telecommunications carrier that relates to the quantity, technical  
26 configuration, type, destination, and amount of use of any telecommunications service

1 subscribed to by an end user of the telecommunications carrier and that is made  
2 available to the carrier by the end user solely by virtue of its relationship with the  
3 carrier;

4 (B) Contained in the end user's billing statement pertaining to telecommunications  
5 services received by the end user from a telecommunications carrier; and

6 (C) Identifying the location of the end user or that may be used to identify the location  
7 of an end user.

8 (2) 'Customer proprietary network information broker' means any person or organization  
9 that purchases, acquires, sells, or releases the customer proprietary network information  
10 of any third party or that attempts to purchase, acquire, sell, or release the customer  
11 proprietary network information of any third party.

12 (3) 'End user' means any person, corporation, partnership, firm, municipality,  
13 cooperative, organization, governmental agency, building owner, or other entity provided  
14 with a telecommunications service for its own consumption and not for resale.

15 (4) 'Personal identifying information' means any of the following information:

16 (A) A person's name;

17 (B) A person's address;

18 (C) A person's date of birth;

19 (D) A person's telephone number;

20 (E) A person's driver's license number or Georgia identification card number;

21 (F) A person's social security number;

22 (G) A person's public, private, or government employer, place of employment, or  
23 employee identification number;

24 (H) The maiden name of a person's mother;

25 (I) The number assigned to a person's depository account, savings account, or  
26 brokerage account;

27 (J) The number assigned to a person's credit or debit card;

28 (K) Personal identification numbers;

29 (L) Electronic identification numbers;

30 (M) Digital signals; and

31 (N) Any other numbers or information which can be used to access a person's financial  
32 resources or to identify a specific individual.

33 (b) It is unlawful for any customer proprietary network information broker to purchase,  
34 acquire, sell, or release the customer proprietary network information or any personal  
35 identifying information of any person who is a Georgia resident or to attempt to purchase,  
36 acquire, sell, or release the customer proprietary network information or any personal  
37 identifying information of any third party who is a Georgia resident. This Code section

1 applies whether the customer proprietary network information is obtained by the customer  
 2 proprietary network information broker directly from a telecommunications carrier or from  
 3 any other third party source. For purposes of this Code section, a person is a Georgia  
 4 resident if the individual has a Georgia billing address or a Georgia area code.

5 (c) A violation of any provision of this Code section is a business offense punishable by  
 6 a fine in an amount not to exceed \$10,000.00 for each violation. Each item of customer  
 7 proprietary network information or personal identifying information purchased, acquired,  
 8 sold, or released and each attempt to purchase, acquire, sell, or release customer  
 9 proprietary network information constitute a separate violation of this Code section. Any  
 10 person who has been injured by a violation of this Code section may commence an action  
 11 in circuit court for damages against the customer proprietary network information broker  
 12 who committed the violation. If the court awards damages to the plaintiff in any action  
 13 brought under this Code section, the court shall awarded the plaintiff court costs and  
 14 attorney's fees.

15 (d) No provision of this Code section shall be construed to prevent any action by a law  
 16 enforcement agency or any officer, employee, or agent of a law enforcement agency to  
 17 obtain the customer proprietary network information or personal identifying information  
 18 of any third party who is a Georgia resident in connection with the performance of the  
 19 official duties of the agency, officer, employee, or agent."

## 20 SECTION 2.

21 Code Section 43-38-11 of the Official Code of Georgia Annotated, relating to denial,  
 22 revocation, or sanction of licenses and registrations, action by the Georgia Board of Private  
 23 Detective and Security Agencies, and judicial review, is amended by striking the word "or"  
 24 at the end of paragraph (14) of subsection (a), by striking the period at the end of paragraph  
 25 (15) of subsection (a) and inserting in lieu thereof "; or", and by inserting immediately  
 26 following paragraph (15) of subsection (a) a new paragraph to read as follows:

27 "(16) Purchased, acquired, sold, or released the customer proprietary network  
 28 information or personal identifying information, as such terms are defined in Code  
 29 Section 46-5-210, of any third party who is a Georgia resident."

## 30 SECTION 3.

31 Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and  
 32 telegraph service, is amended by inserting at the end thereof a new article to read as follows:

## "ARTICLE 6.

46-5-210.

(a) As used in this article, the term:

(1) 'Breach of customer proprietary network information or personal identifying information' means the unauthorized acquisition of customer proprietary network information or personal identifying information that compromises the security, confidentiality, or integrity of that information as maintained by the telecommunications carrier.

(2) 'Customer proprietary network information' means information:

(A) Maintained by a telecommunications carrier that relates to the quantity, technical configuration, type, destination, and amount of use of any telecommunications service subscribed to by an end user of the telecommunications carrier and that is made available to the carrier by the end user solely by virtue of its relationship with the carrier;

(B) Contained in the end user's billing statement pertaining to telecommunications services received by the end user from a telecommunications carrier; and

(C) Identifying the location of the end user or that may be used to identify the location of an end user.

(3) 'End user' means any person, corporation, partnership, firm, municipality, cooperative, organization, governmental agency, building owner, or other entity provided with a telecommunications service for its own consumption and not for resale.

(4) 'Personal identifying information' means any of the following information:

(A) A person's name;

(B) A person's address;

(C) A person's date of birth;

(D) A person's telephone number;

(E) A person's driver's license number or Georgia identification card number;

(F) A person's social security number;

(G) A person's public, private, or government employer, place of employment, or employee identification number;

(H) The maiden name of a person's mother;

(I) The number assigned to a person's depository account, savings account, or brokerage account;

(J) The number assigned to a person's credit or debit card;

(K) Personal identification numbers;

(L) Electronic identification numbers;

1 (M) Digital signals; and

2 (N) Any other numbers or information which can be used to access a person's financial  
3 resources, or to identify a specific individual.

4 46-5-211.

5 No telecommunications carrier may release the customer proprietary network information  
6 or personal identifying information of any end user with a Georgia billing address or a  
7 Georgia area code without the express consent of the end user except with proper law  
8 enforcement or court order documentation.

9

10 46-5-212.

11 (a) Not later than July 1, 2007, the commission shall adopt rules to regulate the security  
12 of customer proprietary network information and personal identifying information  
13 including, but not limited to, all of the following provisions:

14 (1) Security standards to protect the confidentiality of data records containing customer  
15 proprietary network information and personal identifying information;

16 (2) Authentication procedures necessary to provide access by the end user or the end  
17 user's authorized representative to the end user's customer proprietary network  
18 information and personal identifying information; and

19 (3) Reporting requirements for telecommunications carriers, remedies, and other  
20 enforcement mechanisms to ensure compliance with this article.

21 (b) The rules provided for in subsection (a) of this Code section may allow for an  
22 implementation period of up to one year for a telecommunications carrier to implement the  
23 rules adopted by the commission in accordance with this article if the commission  
24 determines that immediate and full compliance with the rules would be unduly  
25 economically burdensome or technically unfeasible for the telecommunications carrier.

26 46-5-213.

27 No provision of this article shall be construed to prohibit a telecommunications carrier from  
28 obtaining, using, releasing, or permitting access to any customer proprietary network  
29 information or personal identifying information of any end user with a Georgia billing  
30 address or a Georgia area code:

31 (1) As otherwise authorized by law;

32 (2) With the lawful consent of the end user or the end user's designated representative;

33 (3) As necessary for the provision of services, for the protection of the rights or property  
34 of the provider, for the protection of end users, and for the protection of other

1 telecommunications carriers from fraudulent, abusive, or unlawful use of or subscription  
2 to services;

3 (4) To a governmental entity, if the telecommunication carrier reasonably believes that  
4 an emergency involving the immediate danger of death or serious physical injury to any  
5 person justifies disclosure of the information; or

6 (5) To the National Center for Missing and Exploited Children, in connection with the  
7 report submitted thereto under Section 227 of the federal Victims of Child Abuse Act of  
8 1990.

9 46-5-214.

10 (a) In the event of a breach of customer proprietary network information or personal  
11 identifying information concerning a Georgia resident, the telecommunications carrier must  
12 notify the Georgia resident immediately following discovery or notification of the breach.  
13 The notice must be made in the most expedient manner possible and without unreasonable  
14 delay, consistent with any measures necessary to determine the scope of the breach and  
15 restore the reasonable integrity, security, and confidentiality of the customer proprietary  
16 network information or personal identifying information.

17 (b) If the telecommunications carrier discovers or has reason to believe that customer  
18 proprietary network information or personal identifying information concerning a Georgia  
19 resident was acquired by an unauthorized person, the telecommunications carrier must  
20 immediately notify the Georgia resident and disclose any breach or suspected breach of  
21 customer proprietary information or personal identifying information. The notice must be  
22 made in the most expedient manner possible and without unreasonable delay, consistent  
23 with any measures necessary to determine the scope of the acquisition by an unauthorized  
24 person and to restore the reasonable integrity, security, and confidentiality of the customer  
25 proprietary network information or personal identifying information.

26 (c) Notice to Georgia residents under this Code section may be provided by any one of the  
27 following methods:

28 (1) Written notice;

29 (2) Electronic notice, if the notice provided is consistent with the provisions regarding  
30 electronic records and signatures for notices legally required to be in writing, as set forth  
31 in Section 7001 of Title 15 of the United States Code; or

32 (3) Substitute notice, if the telecommunications carrier demonstrates that the cost of  
33 providing notice would exceed \$250,000.00, providing notice to the affected class of  
34 subject persons to be notified would exceed \$500,000.00, or if the telecommunications  
35 carrier does not have sufficient contact information. Substitute notice shall consist of all  
36 of the following:

- 1 (A) E-mail notice if the telecommunications carrier has an e-mail address for the  
2 subject persons;
- 3 (B) Conspicuous posting of the notice on the telecommunication carrier's website,  
4 if the telecommunications carrier maintains one; and
- 5 (C) Notice to major state-wide media.
- 6 (d) Notwithstanding any other provision of this Code section to the contrary, if a  
7 telecommunications carrier maintains its own notice procedures as part of a security policy  
8 for the treatment of customer proprietary network information or personal identifying  
9 information that is otherwise consistent with the timing requirements of this Code section,  
10 then that carrier shall be deemed to be in compliance with the notice requirements of this  
11 Code section if the telecommunications carrier notifies Georgia residents in accordance  
12 with its policies in the event of a breach of the security of customer proprietary network  
13 information or personal identifying information.
- 14 (e) Any waiver of the provisions of this Code section is contrary to public policy and is  
15 void and unenforceable.
- 16 (g) A violation of this Code section constitutes an unfair or deceptive practice in consumer  
17 transactions within the meaning of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair  
18 Business Practices Act of 1975.'

19 **SECTION 4.**

20 This Act shall become effective upon its approval by the Governor or upon its becoming law  
21 without such approval.

22 **SECTION 5.**

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