

Senate File 2259 - Reprinted

SENATE FILE 2259
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3040)

(As Amended and Passed by the Senate February 26, 2014)

A BILL FOR

1 An Act modifying provisions applicable to personal information
2 security breach notification requirements, and making
3 penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715C.1, subsection 1, Code 2014, is
2 amended to read as follows:

3 1. "*Breach of security*" means unauthorized acquisition
4 of personal information maintained in computerized form by
5 a person that compromises the security, confidentiality, or
6 integrity of the personal information. "Breach of security"
7 also means unauthorized acquisition of personal information
8 maintained by a person in any medium, including on paper, that
9 was transferred by the person to that medium from computerized
10 form. Good faith acquisition of personal information by a
11 person or that person's employee or agent for a legitimate
12 purpose of that person is not a breach of security, provided
13 that the personal information is not used in violation of
14 applicable law or in a manner that harms or poses an actual
15 threat to the security, confidentiality, or integrity of the
16 personal information.

17 Sec. 2. Section 715C.1, subsection 11, unnumbered paragraph
18 1, Code 2014, is amended to read as follows:

19 "*Personal information*" means an individual's first name or
20 first initial and last name in combination with any one or more
21 of the following data elements that relate to the individual
22 if any of the data elements are not encrypted, redacted, or
23 otherwise altered by any method or technology in such a manner
24 that the name or data elements are unreadable or are encrypted,
25 redacted, or otherwise altered by any method or technology but
26 the keys to unencrypt, unredact, or otherwise read the data
27 elements have been obtained through the breach of security:

28 Sec. 3. Section 715C.1, subsection 11, paragraph c, Code
29 2014, is amended to read as follows:

30 c. Financial account number, credit card number, or debit
31 card number in combination with any required expiration date,
32 security code, access code, or password that would permit
33 access to an individual's financial account.

34 Sec. 4. Section 715C.2, Code 2014, is amended to read as
35 follows:

1 **715C.2 Security breach — ~~consumer~~ notification requirements**
2 **— remedies.**

3 1. Any person who owns or licenses computerized data that
4 includes a consumer's personal information that is used in
5 the course of the person's business, vocation, occupation,
6 or volunteer activities and that was subject to a breach
7 of security shall give notice of the breach of security
8 following discovery of such breach of security, or receipt of
9 notification under subsection 2, to any consumer whose personal
10 information was included in the information that was breached.
11 The consumer notification shall be made in the most expeditious
12 manner possible and without unreasonable delay, consistent
13 with the legitimate needs of law enforcement as provided in
14 subsection 3, and consistent with any measures necessary to
15 sufficiently determine contact information for the affected
16 consumers, determine the scope of the breach, and restore the
17 reasonable integrity, security, and confidentiality of the
18 data.

19 2. Any person who maintains or otherwise possesses personal
20 information on behalf of another person shall notify the owner
21 or licensor of the information of any breach of security
22 immediately following discovery of such breach of security if a
23 consumer's personal information was included in the information
24 that was breached.

25 3. The consumer notification requirements of this section
26 may be delayed if a law enforcement agency determines that
27 the notification will impede a criminal investigation and
28 the agency has made a written request that the notification
29 be delayed. The notification required by this section shall
30 be made after the law enforcement agency determines that the
31 notification will not compromise the investigation and notifies
32 the person required to give notice in writing.

33 4. For purposes of this section, notification to the
34 consumer may be provided by one of the following methods:

35 a. Written notice to the last available address the person

1 has in the person's records.

2 *b.* Electronic notice if the person's customary method of
3 communication with the consumer is by electronic means or is
4 consistent with the provisions regarding electronic records and
5 signatures set forth in chapter 554D and the federal Electronic
6 Signatures in Global and National Commerce Act, 15 U.S.C.
7 § 7001.

8 *c.* Substitute notice, if the person demonstrates that
9 the cost of providing notice would exceed two hundred fifty
10 thousand dollars, that the affected class of consumers to be
11 notified exceeds three hundred fifty thousand persons, or
12 if the person does not have sufficient contact information
13 to provide notice. Substitute notice shall consist of the
14 following:

15 (1) Electronic mail notice when the person has an electronic
16 mail address for the affected consumers.

17 (2) Conspicuous posting of the notice or a link to the
18 notice on the internet site of the person if the person
19 maintains an internet site.

20 (3) Notification to major statewide media.

21 5. Notice pursuant to this section shall include, at a
22 minimum, all of the following:

23 *a.* A description of the breach of security.

24 *b.* The approximate date of the breach of security.

25 *c.* The type of personal information obtained as a result of
26 the breach of security.

27 *d.* Contact information for consumer reporting agencies.

28 *e.* Advice to the consumer to report suspected incidents
29 of identity theft to local law enforcement or the attorney
30 general.

31 6. Notwithstanding subsection 1, notification is not
32 required if, after an appropriate investigation or after
33 consultation with the relevant federal, state, or local
34 agencies responsible for law enforcement, the person determined
35 that no reasonable likelihood of financial harm to the

1 consumers whose personal information has been acquired has
2 resulted or will result from the breach. Such a determination
3 must be documented in writing and the documentation must be
4 maintained for five years.

5 7. This section does not apply to any of the following:

6 a. A person who complies with notification requirements or
7 breach of security procedures that provide greater protection
8 to personal information and at least as thorough disclosure
9 requirements than that provided by this section pursuant to
10 the rules, regulations, procedures, guidance, or guidelines
11 established by the person's primary or functional federal
12 regulator.

13 b. A person who complies with a state or federal law
14 that provides greater protection to personal information and
15 at least as thorough disclosure requirements for breach of
16 security or personal information than that provided by this
17 section.

18 c. A person who is subject to and complies with regulations
19 promulgated pursuant to Title V of the Gramm-Leach-Bliley Act
20 of 1999, 15 U.S.C. § 6801 - 6809.

21 8. Any person who owns or licenses computerized data that
22 includes a consumer's personal information that is used in
23 the course of the person's business, vocation, occupation,
24 or volunteer activities and that was subject to a breach of
25 security requiring notification to more than five hundred
26 residents of this state pursuant to this section shall give
27 written notice of the breach of security following discovery
28 of such breach of security, or receipt of notification under
29 subsection 2, to the director of the consumer protection
30 division of the office of the attorney general within three
31 business days after giving notice of the breach of security to
32 any consumer pursuant to this section.

33 ~~8.~~ 9. a. A violation of this chapter is an unlawful
34 practice pursuant to section 714.16 and, in addition to the
35 remedies provided to the attorney general pursuant to section

1 714.16, subsection 7, the attorney general may seek and obtain
2 an order that a party held to violate this section pay damages
3 to the attorney general on behalf of a person injured by the
4 violation.

5 *b.* The rights and remedies available under this section are
6 cumulative to each other and to any other rights and remedies
7 available under the law.