

AMENDED IN ASSEMBLY AUGUST 4, 2008

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE JANUARY 28, 2008

AMENDED IN SENATE JANUARY 17, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 364

Introduced by Senator Simitian

February 20, 2007

An act to add ~~Sections 1798.29.5 and 1798.82.5~~ *Section 1724.5* to the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as amended, Simitian. Personal information: privacy.

~~Existing law requires any agency, and any person or business conducting business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the system or data, as defined, following discovery or notification of the security breach, to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Existing law also requires any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data~~

~~immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.~~

~~This bill would authorize an agency, person, or business, at its discretion, to include within those notices information about what has been done to protect persons whose information has been breached, and advice on steps those persons may take to protect themselves. This bill would also require the agency, person, or business, in addition to the duties specified above, to submit electronically a copy of the notification of the breach to the Attorney General, as specified.~~

Existing law requires any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

This bill would require that notification to the owner or licensee of the information include, among other things, a description of the categories of personal information that were, or may have been, acquired, a toll-free or local telephone number or electronic mail address that individuals may use to contact the agency, person, or business, and the telephone numbers and addresses of the major credit reporting agencies. If the owner or licensee of the information is the issuer of the credit or debit card or the payment device, or maintains the account from which the payment device orders payment, the bill would require the owner or licensee to disclose the same information to the California resident in plain language, as specified.

This bill would become operative only if AB 1779 of the 2007–08 Regular Session is enacted and takes effect on or before January 1, 2009.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1724.5 is added to the Civil Code, to read:
2 1724.5. (a) Any person, business, or agency subject to Section
3 1724.4 that is required to give notice of a breach of the security
4 of the system pursuant to subdivision (b) of Section 1798.29 or
5 subdivision (b) of Section 1798.82 shall include in that notification
6 to the owner or licensee of the information, in plain language, all

1 of the following information if available at the time the notice is
2 provided:

3 (1) The date of the notice.

4 (2) The name of the agency, person, or business that maintained
5 the computerized data at the time of the breach.

6 (3) The date, estimated date, or date range within which the
7 breach occurred, if that information is possible to determine at
8 the time the notice is provided.

9 (4) A description of the categories of personal information that
10 were, or is reasonably believed to have been, acquired by an
11 unauthorized person.

12 (5) A toll-free telephone number for the agency, person, or
13 business subject to the breach of the security of the system of that
14 agency, person, or business or, if the primary method used by that
15 agency, person, or business to communicate with the individuals
16 whose information is the subject of the breach is by electronic
17 means, an electronic mail address that the individuals may use to
18 contact the agency, person, or business so that the individuals may
19 learn what types of personal information that agency, person, or
20 business maintained about the individuals that were subject to the
21 security breach. If the agency, person, or business that experienced
22 the breach does not have a toll-free telephone number, a local
23 telephone number may be provided to the owner or licensee of the
24 information to contact the agency, person, or business.

25 (6) The toll-free telephone numbers and addresses for the major
26 credit reporting agencies.

27 (b) The notification required by subdivision (a) may be delayed
28 if a law enforcement agency determines that the notification will
29 impede a criminal investigation. The notification required by
30 subdivision (a) shall be made after the law enforcement agency
31 determines that it will not compromise the investigation.

32 (c) If the owner or licensee of the information is the issuer of
33 the credit or debit card or the payment device, or maintains the
34 account from which the payment device orders payment, the owner
35 or licensee shall disclose to the California resident in any
36 notification provided pursuant to subdivision (a) of Section 1798.29
37 or subdivision (a) of Section 1798.82, in plain language, all
38 information described in paragraphs (1) to (6), inclusive, of
39 subdivision (a) of this section that is available at the time that
40 notification is made, except however, with respect to paragraph

1 (5), an electronic mail address may be provided in lieu of a toll-free
2 or local telephone number to those individuals with whom the
3 primary method used by that agency, person, or business to
4 communicate is by electronic means.

5 SECTION 1. Section 1798.29.5 is added to the Civil Code, to
6 read:

7 1798.29.5. (a) At the discretion of any agency that must issue
8 a security breach notification pursuant to Section 1798.29, the
9 security breach notification may include the following:

10 (1) Information about what the agency has done to protect
11 individuals whose information has been breached.

12 (2) Advice on steps that the person whose information has been
13 breached may take to protect himself or herself.

14 (b) An agency that must issue a security breach notification
15 pursuant to subdivision (a) or (g) of Section 1798.29 shall do the
16 following:

17 (1) Submit electronically to the Attorney General a single sample
18 copy of any security breach notification letter sent to over 1,000
19 California residents pursuant to subdivision (a) of Section 1798.29.

20 (2) Submit electronically to the Attorney General a single sample
21 copy of any substitute security breach notification sent to California
22 residents pursuant to subdivision (g) of Section 1798.29.

23 SEC. 2. Section 1798.82.5 is added to the Civil Code, to read:

24 1798.82.5. (a) At the discretion of any person or business that
25 must issue a security breach notification pursuant to Section
26 1798.82, the security breach notification may include the following:

27 (1) Information about what the person or business has done to
28 protect individuals whose information has been breached.

29 (2) Advice on steps that the person whose information has been
30 breached may take to protect himself or herself.

31 (b) A person or business that must issue a security breach
32 notification pursuant to subdivision (a) or (g) of Section 1798.82
33 shall do the following:

34 (1) Submit electronically to the Attorney General a single sample
35 copy of any security breach notification letter sent to over 1,000
36 California residents pursuant to subdivision (a) of Section 1798.82.

37 (2) Submit electronically to the Attorney General a single sample
38 copy of any substitute security breach notification sent to California
39 residents pursuant to subdivision (g) of Section 1798.82.

1 ~~SEC. 3.~~

2 *SEC. 2.* This act shall become operative only if Assembly Bill
3 1779 of the 2007–08 Regular Session is enacted and takes effect
4 on or before January 1, 2009.

O