
A BILL FOR AN ACT

RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS.

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

1 SECTION 1. Business and government agency records are a
2 leading source of personal information for identity thieves.
3 Any entity that maintains personal information as part of its
4 business operations should establish security procedures to
5 maintain the confidentiality and integrity of that data. A
6 critical element of any security plan is the destruction of
7 records containing personal information when they are being
8 discarded. Throughout the United States, there have been
9 repeated instances of businesses carelessly dumping boxes
10 containing scores of customers' personal information in
11 dumpsters.

12 The purpose of this Act is to protect the people of Hawaii
13 from identity theft by requiring businesses and government, when
14 disposing of records containing personal information, to take
15 reasonable measures to protect against unauthorized access to
16 that information.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding to title 26 a new chapter to be appropriately designated
3 and to read as follows:

4 "CHAPTER

5 DESTRUCTION OF PERSONAL INFORMATION RECORDS

6 § -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

8 "Business" means a sole proprietorship, partnership,
9 corporation, association, or other group, however organized and
10 whether or not organized to operate at a profit. The term
11 includes a financial institution organized, chartered, or
12 holding a license or authorization certificate under the laws of
13 the State, any other state, the United States, or any other
14 country, or the parent or the subsidiary of any such financial
15 institution. The term also includes an entity whose business is
16 records destruction.

17 "Disposal" means the discarding or abandonment of records
18 containing personal information or the sale, donation,
19 discarding, or transfer of any medium, including computer
20 equipment or computer media, containing records of personal
21 information, or other nonpaper media upon which records of



1 personal information are stored, or other equipment for nonpaper
2 storage of information.

3 "Government agency" means any department, division, board,
4 commission, public corporation, or other agency or
5 instrumentality of the State of any county.

6 "Personal information" means an individual's first name or
7 first initial and last name in combination with any one or more
8 of the following data elements, when either the name or the data
9 elements are not encrypted:

- 10 (1) Social security number;
- 11 (2) Driver's license number or Hawaii identification card
12 number; or
- 13 (3) Account number, credit or debit card number, access
14 code, or password that would permit access to an
15 individual's financial account.

16 "Personal information" shall not include publicly available
17 information that is lawfully made available to the general
18 public from federal, state, or local government records.

19 "Records" means any material on which written, drawn,
20 spoken, visual, or electromagnetic information is recorded or
21 preserved, regardless of physical form or characteristics.



1 § -2 **Destruction of personal information records.** (a)

2 Any business or government agency that conducts business in
3 Hawaii and any business or government agency that maintains or
4 otherwise possesses personal information of a resident of Hawaii
5 shall take reasonable measures to protect against unauthorized
6 access to or use of the information in connection with or after
7 its disposal.

8 (b) The reasonable measures shall include:

9 (1) Implementing and monitoring compliance with policies
10 and procedures that require the burning, pulverizing,
11 recycling, or shredding of papers containing personal
12 information so that information cannot be practicably
13 read or reconstructed;

14 (2) Implementing and monitoring compliance with policies
15 and procedures that require the destruction or erasure
16 of electronic media and other nonpaper media
17 containing personal information so that the
18 information cannot practicably be read or
19 reconstructed; and

20 (3) Describing procedures relating to the adequate
21 destruction or proper disposal of personal records as

1 official policy in the writings of the business
2 entity.

3 (c) A business or government agency may satisfy its
4 obligation hereunder by exercising due diligence and entering
5 into a written contract with, and thereafter monitoring
6 compliance by, another party engaged in the business of record
7 destruction to destroy personal information in a manner
8 consistent with this section. Due diligence should ordinarily
9 include one or more of the following:

- 10 (1) Reviewing an independent audit of the disposal
11 business's operations or its compliance with this
12 statute or its equivalent;
- 13 (2) Obtaining information about the disposal business from
14 several references or other reliable sources and
15 requiring that the disposal business be certified by a
16 recognized trade association or similar third party
17 with a reputation for high standards of quality
18 review; or
- 19 (3) Reviewing and evaluating the disposal business's
20 information security policies or procedures, or taking
21 other appropriate measures to determine the competency
22 and integrity of the disposal business.



1 (d) A disposal business that conducts business in Hawaii
2 or disposes of personal information of residents of Hawaii shall
3 take reasonable measures to dispose of records containing
4 personal information by implementing and monitoring compliance
5 with policies and procedures that protect against unauthorized
6 access to, or use of, personal information during or after the
7 collection, transportation, and disposing of such information.

8 (e) This section shall not apply to any of the following
9 businesses:

10 (1) Any financial institution that is subject to 15 U.S.C.
11 Sections 6801 to 6809, as amended;

12 (2) Any health plan or healthcare provider that is subject
13 to and in compliance with the standards for privacy of
14 individually identifiable health information and the
15 security standards for the protection of electronic
16 health information of the Health Insurance Portability
17 and Accountability Act of 1996; or

18 (3) Any consumer reporting agency that is subject to and
19 in compliance with the Fair Credit Reporting Act, 15
20 U.S.C. Sections 1681 to 1681v.

21 § -3 Penalties; civil action. (a) Any business that
22 violates any provision of this chapter shall be deemed to have



1 engaged in an unfair or deceptive act or practice in the conduct
2 of trade or commerce within the meaning of section 480-2. The
3 attorney general or the director of the office of consumer
4 protection may bring an action based upon unfair or deceptive
5 acts or practices declared unlawful by this section. No such
6 action may be brought against a government agency.

7 (b) In addition to any penalty provided for in subsection
8 (f), any business or government employee that violates any
9 provision of this chapter shall be liable to the injured party
10 in an amount equal to the sum of any actual damages sustained by
11 the injured party as a result of the violation, or damages not
12 less than \$500, whichever is greater. The court, in any action
13 brought under this section, may award reasonable attorneys' fees
14 to the prevailing party."

15 SECTION 3. This Act shall take effect on July 1, 2050.



SB 2292
SD 2
HD 1

Report Title:

Identity Theft; Prevention

Description:

Requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information. Effective July 1, 2050. (SB2292 HD1)

