

SENATE BILL 2536

By Ketron

AN ACT to amend Tennessee Code Annotated, Section 47-18-2107, relative to breaches of system security.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-2107(a), is amended by deleting subdivision (3) and adding the following new appropriately designated subdivisions:

() "Determination of a breach of system security" means the point in time at which an information holder has sufficient information to conclude that a breach of system security occurred;

() "Information holder" means any person that owns, licenses, or maintains computerized personal information of any resident of this state;

() "Person" means a natural person, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized;

SECTION 2. Tennessee Code Annotated, Section 47-18-2107(a)(4)(A), is amended by deleting subdivision (ii) and substituting the following:

(ii) Official state or government issued driver license or identification number, including a federal employer or taxpayer identification number;

SECTION 3. Tennessee Code Annotated, Section 47-18-2107(a)(4)(A), is amended by adding the following subdivisions:

() Passport number;

() A username or email address, in combination with a password or security question and answer that would permit access to an online account;

() Medical information, including mental and physical medical history, mental and physical treatment by a healthcare professional, diagnosis of mental or physical condition by a healthcare professional, or deoxyribonucleic acid (DNA) profile;

() Health insurance information, including health insurance policy numbers, subscriber identification numbers, or any other unique identifiers used by a health insurer to identify an individual, or any medical information in an individual's health insurance application and claims history, including any appeals records;

() Unique biometric data generated from measurements or analysis of human body characteristics for authentication purposes;

() Password protected digital photographs or digital videos not otherwise available to the public;

SECTION 4. Tennessee Code Annotated, Section 47-18-2107(b), is amended by deleting the subsection and substituting the following:

(b) Following determination of a breach of system security or following notification of a breach of system security by a third-party information holder, and except as provided in subsection (e), the information holder that owns the personal information at issue shall disclose the breach of system security within forty-five (45) days to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person. When an information holder required by this section to notify residents of this state of a breach of system security could not, through reasonable diligence, determine within forty-five (45) days that the personal information of certain residents of this state was included in a breach, the information holder must provide the notice required by this section to such residents as soon as is practicable after it is determined that the personal information of those residents was included in a breach of system security, unless the information holder provides or has provided substitute notice in accordance with this section.

SECTION 5. Tennessee Code Annotated, Section 47-18-2107(c), is amended by deleting the subsection and substituting the following:

(c) Any information holder that maintains computerized data that includes personal information that the information holder does not own shall notify and cooperate with the owner or licensee of that information immediately following a determination of a breach of system security that affected personal information owned or licensed by another. For the purposes of this subsection (c), cooperation includes, but is not limited to, informing the owner or licensee of:

(1) The breach, including giving notice of the date or approximate date of the breach and the nature of the breach; and

(2) Any steps the data collector has taken or plans to take relating to the breach.

SECTION 6. Tennessee Code Annotated, Section 47-18-2107(h), is amended by deleting the subsection and substituting the following:

(h) Any person whose personal information is owned, licensed, or maintained by an information holder that is not an agency of the state or any political subdivision of the state and who is injured by a violation of this section may institute a civil action to recover damages and to enjoin the information holder from further actions in violation of this section. However, no such civil action may be initiated against an information holder that is an agency of the state or any of its political subdivisions. The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

SECTION 7. Tennessee Code Annotated, Section 47-18-2107, is amended by adding the following as a new subsection:

An information holder required to issue a notice disclosing a breach of system security, pursuant to this section, to more than five hundred (500) residents of this state shall immediately notify the attorney general of the breach and shall submit to the attorney general a sample copy of the breach notification concurrent with notifying such residents.

SECTION 8. Tennessee Code Annotated, Section 47-18-2107(i), is amended by deleting the subsection and substituting the following:

(i) This section does not apply to any information holder that is:

(1) Subject to Title V of the Gramm-Leach-Bliley Act of 1999 (Pub. L. No. 106-102); or

(2) An agency of the state or any of its political subdivisions.

SECTION 9. Tennessee Code Annotated, Section 47-18-2107, is amended by adding the following new subsection (b) and redesignating the existing subsections accordingly:

(b) All information holders shall implement and maintain reasonable procedures and practices, commensurate with industry standards and with the size and complexity of the information, to prevent the unauthorized acquisition, use, modification, disclosure, or destruction of personal information collected or maintained in the regular course of business, including appropriate corrective action.

SECTION 10. Tennessee Code Annotated, Section 47-18-2107, is amended by adding the following new subsection (f) and redesignating the existing subsections accordingly:

(f) In the case of a breach of system security involving personal information that includes login credentials for an email account, the information holder shall not comply with this section solely by providing the breach notification to such email account, but must also use an additional notice method as provided for in subdivisions (e)(1) and (e)(3).

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.