

SECOND REGULAR SESSION

HOUSE BILL NO. 2163

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRILL (Sponsor), TALBOY, DARROUGH, SCHNEIDER,
SCHIEFFER AND MEINERS (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

4851L.01I

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the prevention of identity theft.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.2035, to read as follows:

407.2035. 1. For the purposes of this section, the following terms mean:

2 **(1) "Business", sole proprietorship, partnership, corporation, association, or other**
3 **group, however organized and whether or not organized to operate at a profit. The term**
4 **includes a financial institution organized, chartered, or holding a license or authorization**
5 **certificate under the laws of this state, any other state, the United States, or any other**
6 **country, or the parent or the subsidiary of any such financial institution. The term also**
7 **includes an entity that destroys records;**

8 **(2) "Dispose" includes:**

9 **(a) The discarding or abandonment of records containing personal information;**
10 **and**

11 **(b) The sale, donation, discarding, or transfer of any medium, including computer**
12 **equipment, or computer media, containing records of personal information, or other**
13 **nonpaper media upon which records of personal information is stored, or other equipment**
14 **for nonpaper storage of information;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (3) "Personal information", a Social Security number; a personal identification
16 number; a password; a passcode; an official state or government-issued driver's license or
17 identification card number; a government passport number; biometric information other
18 than a photographic image; an employer, student, or military identification number; a
19 financial transaction device or financial account number, or health information including
20 medical records and health insurance identifiers;

21 (4) "Records", any material on which written, drawn, spoken, visual or
22 electromagnetic information is recorded or preserved, regardless of physical form or
23 characteristics. "Records" shall not include publicly available directories containing
24 information an individual has voluntarily consented to have publicly disseminated or
25 listed, such as name, address or telephone number;

26 (5) "Social Security number", any portion of three or more consecutive digits of a
27 Social Security number.

28 2. Any business that conducts business in the state of Missouri and any business
29 that maintains or otherwise possesses personal information of residents of the state of
30 Missouri shall take all reasonable measures to protect against unauthorized access to or
31 use of the information in connection with, or after its disposal. Such reasonable measures
32 shall include, but may not be limited to:

33 (1) Implementing and monitoring compliance with policies and procedures that
34 require the burning, pulverizing or shredding of papers containing personal information
35 so that the information cannot practicably be read or reconstructed;

36 (2) Implementing and monitoring compliance with policies and procedures that
37 require the destruction or erasure of electronic media and other nonpaper media
38 containing personal information so that the information cannot practicably be read or
39 reconstructed;

40 (3) After due diligence, entering into and monitoring compliance with a written
41 contract with another party engaged in the business of record destruction to dispose of
42 personal information in a manner consistent with this section. Due diligence should
43 ordinarily include, but may not be limited to, one or more of the following:

44 (a) Reviewing an independent audit of the disposal company's operations or its
45 compliance with this section or its equivalent;

46 (b) Obtaining information about the disposal company from several references or
47 other reliable sources and requiring that the disposal company be certified by a recognized
48 trade association or similar third party with a reputation for high standards of quality
49 review;

50 (c) Reviewing and evaluating the disposal company's information security policies
51 or procedures, or taking other appropriate measures to determine the competency and
52 integrity of the disposal company;

53 (4) A disposal company that conducts business in Missouri or disposes personal
54 information of residents of Missouri shall take reasonable measures to dispose of records
55 containing personal information by implementing and monitoring compliance with policies
56 and procedures that protect against unauthorized access to or use of personal information
57 during or after the collection and transportation and disposing of such information in
58 accordance with subdivisions (1) and (2) of this subsection.

59 3. Procedures relating to the adequate destruction or proper disposal of personal
60 records shall be comprehensively described and classified as official policy in the writings
61 of the business entity, including corporate and employee handbooks and similar corporate
62 documents.

63 4. (1) Any person or business that violates this section may be subject to a civil
64 penalty of not more than three thousand dollars.

65 (2) Any individual aggrieved by a violation of this section may bring a civil action
66 to enjoin further violations and to recover actual damages, costs, and reasonable attorney's
67 fees.

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