

Regular Session, 2014

SENATE BILL NO. 176

BY SENATOR MORRELL

COMMERCIAL REGULATIONS. Provides relative to the Database Security Breach Notification Law. (8/1/14)

1 AN ACT

2 To enact R.S. 51:3078, relative to the Database Security Breach Notification Law; to
3 provide for definitions; to provide for storage of certain information; to provide for
4 damages; to provide for terms, conditions, and procedures; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 51:3078 is hereby enacted to read as follows:

8 **§3078. Access devices; retention prohibited**

9 **A. As used in this Section, the terms shall have the following meanings:**

10 **(1) "Access device" means a card issued by a financial institution that**
11 **contains a magnetic stripe, microprocessor chip, or other means for storage of**
12 **information. It includes but is not limited to a credit card, debit card, or stored**
13 **value card.**

14 **(2) "Financial institution" means any person organized to engage in the**
15 **business of banking pursuant to the laws of the United States or any person**
16 **organized to engage in the business of banking pursuant to Title VI of the**
17 **Louisiana Revised Statutes of 1950.**

1 **(3) "Magnetic stripe data" means the data contained in the magnetic**
2 **stripe of an access device.**

3 **(4) "Microprocessor chip data" means the data contained in the**
4 **microprocessor chip of an access device.**

5 **(5) "Service provider" means a person or entity that stores, processes,**
6 **or transmits access device data on behalf of another person or entity.**

7 **B. No person conducting business in Louisiana that accepts an access**
8 **device in connection with a transaction shall retain personal information or the**
9 **full contents of any track of magnetic stripe data for more than forty-five days**
10 **after authorization of the transaction. In addition, a person is in violation of**
11 **this Section if its service provider retains such data more than forty-five days**
12 **after authorization of the transaction.**

13 **C. Any person who violates the provisions of Subsection B of this Section**
14 **shall reimburse the financial institution that issued any access devices affected**
15 **by the breach for the costs of reasonable actions undertaken by the financial**
16 **institution as a result of the breach in order to protect the information of its**
17 **cardholders or to continue to provide services to cardholders, including but not**
18 **limited to any costs incurred in connection with the following:**

19 **(1) The cancellation or reissuance of any access device affected by the**
20 **breach.**

21 **(2) The closure of any deposit, transaction, share draft, or other**
22 **accounts affected by the breach and any action to stop payments or block**
23 **transactions with respect to the accounts.**

24 **(3) The opening or reopening of any deposit, transaction, share draft, or**
25 **other accounts affected by the breach.**

26 **(4) Any refund or credit made to an access device holder to cover the**
27 **cost of any unauthorized transaction related to the breach.**

28 **(5) The notification of access device holders affected by the breach.**

29 **D. In addition to any other right or remedy otherwise authorized by law,**

1 **the financial institution and access device holder shall be entitled to recover**
 2 **damages for costs incurred by a breach of the security of the system of a person**
 3 **who has violated the provisions of this Section. Costs shall not include any**
 4 **amounts recovered from a credit card company by a financial institution or**
 5 **amounts recovered from a credit card company or financial institution by an**
 6 **access device holder.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Morrell (SB 176)

Present law provides relative to the Database Security Breach Notification Law.

Present law provides for definitions.

Proposed law adds the following definitions:

- (1) "Access device" means a card issued by a financial institution that contains a magnetic stripe, microprocessor chip, or other means for storage of information, and includes but is not limited to a credit card, debit card, or stored value card.
- (2) "Financial institution" means any person organized to engage in the business of banking pursuant to the laws of the United States or any person organized to engage in the business of banking pursuant to La. law.
- (3) "Magnetic stripe data" means the data contained in the magnetic stripe of an access device.
- (4) "Microprocessor chip data" means the data contained in the microprocessor chip of an access device.
- (5) "Service provider" means a person or entity that stores, processes, or transmits access device data on behalf of another person or entity.

Proposed law provides that no person conducting business in Louisiana that accepts an access device in connection with a transaction shall retain personal information or the full contents of any track of magnetic stripe data for more than 45 days after authorization of the transaction. In addition, a person is in violation of proposed law if its service provider retains such data more than 45 days after authorization of the transaction.

Proposed law provides that any person who violates the provisions of proposed law shall reimburse the financial institution that issued any access devices affected by the breach for the costs of reasonable actions undertaken by the financial institution as a result of the breach in order to protect the information of its cardholders or to continue to provide services to cardholders, including but not limited to any costs incurred in connection with the following:

- (1) The cancellation or reissuance of any access device affected by the breach.
- (2) The closure of any deposit, transaction, share draft, or other accounts affected by the

- breach and any action to stop payments or block transactions with respect to the accounts.
- (3) The opening or reopening of any deposit, transaction, share draft, or other accounts affected by the breach.
 - (4) Any refund or credit made to an access device holder to cover the cost of any unauthorized transaction related to the breach.
 - (5) The notification of access device holders affected by the breach.

Proposed law provides that in addition to any other right or remedy otherwise authorized by law, the financial institution and access device holder shall be entitled to recover costs for damages incurred by a breach of the security of the system of a person who has violated the provisions of proposed law.

Proposed law also provides that costs do not include any amounts recovered from a credit card company by a financial institution or amounts recovered from a credit card company or financial institution by an access device holder.

Effective August 1, 2014.

(Adds R.S. 51:3078)