

By Mr. Barrios, a petition (accompanied by bill, Senate, No. 184) of Jarrett T. Barrios, Michael A. Costello, Michael R. Knapik, Steven A. Tolman and other members of the General Court for legislation to prevent identity theft and establish a victim's bill of rights. Consumer Protection and Professional Licensure

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO PREVENT IDENTITY THEFT AND ESTABLISH A VICTIM'S BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 50 of said chapter 93 of the General
2 Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by inserting the following definitions:—

4 “Breach”, any unauthorized acquisition of computerized data
5 that compromises the security, and confidentiality, or integrity of
6 personal information maintained by a data collector including, but
7 not limited to, unauthorized photocopying, facsimiles, or other
8 paper-based transmittal of documents.

9 “Credit Header”, all identifying consumer information, not
10 included in the definition of “consumer report”, including, but not
11 limited to, complete first and last name, date of birth, current
12 phone number, social security number and current employer.

13 “Data Collector”, any entity which, for any purpose, whether
14 by automated collection or otherwise, handles, collects, dissemi-
15 nates, or otherwise deals with nonpublic personal information,
16 including, but not limited to government agencies, public and pri-
17 vate universities, privately and publicly held corporations, finan-
18 cial institutions, retail operators and businesses.

19 “Dispose”, the discarding, abandonment, sale, donation, dis-
20 carding or transfer of any records or instruments containing per-
21 sonal information including, but not limited to, files, letters,
22 documents, computer equipment, and computer media.

23 “Personal Information”, any information that identifies, relates
24 to, describes, or is capable of being associated with a particular
25 individual including, but not limited to, a name, signature, social
26 security number, fingerprint, photograph or computerized image,
27 physical characteristics or description, address, telephone number,
28 passport number, driver's license or state identification care
29 number, date of birth, medical information, bank account number,
30 credit card number, debit card number, or any other financial
31 information.

32 “Records”, any material on which written, drawn, spoken,
33 visual or electromagnetic information is recorded or preserved,
34 regardless of physical form or characteristics, and which is not
35 part of a publicly available directory containing information that
36 an individual has voluntarily consented to have publicly dissemi-
37 nated or listed.

1 SECTION 2. Section 51 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the word “report, in line 2, the
3 following words:— “or a credit header”.

1 SECTION 3. Said chapter 93 is hereby amended by inserting
2 after section 51A the following section:—

3 Section 51B. (a) A consumer may place a security freeze on
4 his or her credit report by submitting a security freeze request to a
5 consumer reporting agency. A security freeze shall prohibit a
6 consumer reporting agency from releasing any part of the con-
7 sumer's credit report or any information derived from said report
8 without the express authorization of the consumer. A security
9 freeze request may be made by a consumer via certified mail,
10 telephone, or a secure electronic mail connection if such connec-
11 tion is made available by the agency. Nothing in this section shall
12 prevent a consumer reporting agency from advising a third party
13 that a security freeze is in effect with respect to a consumer's
14 credit report.

15 (b) Upon receiving a security freeze request from a consumer, a
16 consumer reporting agency shall place a security freeze on a con-
17 sumer's credit report no later than five business days after
18 receiving a written or telephone request from the consumer or
19 three business days after receiving a secure electronic mail

20 request. The consumer reporting agency shall send a written con-
21 firmation of the security freeze to the consumer within five busi-
22 ness days of placing the freeze and shall further provide the
23 consumer with a unique personal identification number or pass-
24 word to be used by the consumer when providing authorization
25 for the release of his or her credit to a specific party or for a
26 period of time.

27 (c) A consumer may allow a credit report to be accessed by a
28 specific party or for a period of time while a freeze is in place by
29 contacting the consumer reporting agency via telephone, certified
30 mail, or secure electronic mail, request that the freeze be tem-
31 porarily lifted, and providing the following:

32 (1) proper identification,

33 (2) the unique personal identification number or password pro-
34 vided by the consumer reporting agency pursuant to this section,
35 and

36 (3) the name of the third party who is to receive the credit
37 report or the time period for which the report shall be available to
38 users of the credit report.

39 Any consumer reporting agency that receives a request from a
40 consumer to temporarily lift a freeze on a credit report shall
41 comply with the request no later than three business days after
42 receiving the request. A consumer reporting agency may develop
43 procedures involving the use of telephone, fax, or, upon the con-
44 sent of the consumer in the manner required by the Electronic Sig-
45 natures in Global and National Commerce Act [E-Sign] for legally
46 required notices, by the Internet, e-mail, or other electronic media,
47 to receive and process a request from a consumer to temporarily
48 lift a freeze on a credit report in an expedited manner.

49 (d) A consumer reporting agency shall remove or temporarily
50 lift a freeze placed on a consumer's credit report only (1) upon
51 consumer request, pursuant to this section or (2) if the consumer's
52 credit report was frozen due to a material misrepresentation of
53 fact by the consumer, provided that if a consumer reporting
54 agency intends to remove a freeze upon a consumer's credit report
55 pursuant to this paragraph, the consumer reporting agency shall
56 notify the consumer in writing five business days prior to
57 removing the freeze on the consumer's credit report.

58 (e) If a third party requests access to a consumer credit report
59 on which a security freeze is in effect for the purpose of
60 receiving, extending, or otherwise utilizing the credit therein, and
61 not for the sole purpose of account review such as activities
62 related to account maintenance, monitoring, credit line increases,
63 and account upgrades and enhancements, the consumer credit
64 report agency must notify the consumer that an attempt has been
65 made to access the credit report. A consumer reporting agency
66 shall not suggest, state, or imply to a third party that the con-
67 sumer's security freeze reflects a negative credit score, history,
68 report or rating.

69 (f) The provisions of this section shall not apply to the use of a
70 consumer credit report by any of the following:

71 (1) A person, or the person's subsidiary, affiliate, agent, or
72 assignee with which the consumer has or, prior to assignment, had
73 an account, contract, or debtor-creditor relationship for the pur-
74 poses of reviewing the account, including activities related to
75 account maintenance, monitoring, credit line increases, and
76 account upgrades and enhancements, or collecting the financial
77 obligation owing for the account, contract, or debt;

78 (2) A subsidiary, affiliate, agent, assignee, or prospective
79 assignee of a person to whom access has been granted under para-
80 graph (4) of subsection (B) for purposes of facilitating the exten-
81 sion of credit or other permissible use;

82 (3) Any person acting pursuant to a court order, warrant, or
83 subpoena.

84 (4) A state or local agency which administers a program for
85 establishing and enforcing child support obligations;

86 (5) The department of public health or its agents or assigns
87 acting to investigate fraud;

88 (6) The department of revenue or its agents or assigns acting to
89 investigate or collect delinquent taxes or unpaid court orders or to
90 fulfill any of its other statutory responsibilities;

91 (7) A person for the purposes of prescreening as defined by the
92 federal Fair Credit Reporting Act;

93 (8) Any person or entity administering a credit file monitoring
94 subscription service to which the consumer has subscribed; or

95 (9) Any person or entity for the purpose of providing a con-
96 sumer with a copy of his or her credit report upon the consumer's
97 request.

98 (g) A consumer shall not be charged for any security freeze
99 services, including but not limited to the placement or lifting of a
100 security freeze, provided, however, that a consumer may be
101 charged not more than \$5 for a new personal identification
102 number if the consumer fails to retain the original personal identi-
103 fication number given to them by the agency.

104 (h) At any time that a consumer is required to receive a sum-
105 mary of rights required under Section 609 of the federal Fair
106 Credit Reporting Act or under any law of the commonwealth, the
107 following notice, in at least 10 point font, shall be included:

108 "Massachusetts Consumers Have the Right to Obtain a Security
109 Freeze

110 You may obtain a security freeze on your credit report at no
111 charge to protect your privacy and ensure that credit is not granted
112 in your name without your knowledge. You have a right to place a
113 "security freeze" on your credit report pursuant to Massachusetts
114 law. The security freeze will prohibit a consumer reporting
115 agency from releasing any information in your credit report
116 without your express authorization or approval.

117 The security freeze is designed to prevent credit, loans, and
118 services from being approved in your name without your consent.
119 When you place a security freeze on your credit report, within
120 five business days you will be provided a personal identification
121 number or password to use if you choose to remove the freeze on
122 your credit report or to temporarily authorize the release of your
123 credit report for a specific party, parties or period of time after the
124 freeze is in place. To provide that authorization, you must contact
125 the consumer reporting agency and provide all of the following:

126 (1) The unique personal identification number or password pro-
127 vided by the consumer reporting agency.

128 (2) Proper identification to verify your identity.

129 (3) The proper information regarding the third party or parties
130 who are to receive the credit report or the period of time for which
131 the report shall be available to users of the credit report.

132 A consumer reporting agency that receives a request from a
133 consumer to lift temporarily a freeze on a credit report shall
134 comply with the request no later than three business days after
135 receiving the request. A security freeze does not apply to circum-
136 stances where you have an existing account relationship and a

137 copy of your report is requested by your existing creditor or its
138 agents or affiliates for certain types of account review such as
139 activities related to account maintenance, monitoring, credit line
140 increases, and account upgrades and enhancements, collection,
141 fraud control or similar activities. If you are actively seeking
142 credit, you should understand that the procedures involved in
143 lifting a security freeze may slow your own applications for
144 credit. You should plan ahead and lift a freeze – either completely
145 if you are shopping around, or specifically for a certain creditor –
146 a few days before actually applying for new credit.

147 You have a right to bring a civil action against someone who
148 violates your rights under the credit reporting laws. The action
149 can be brought against a consumer reporting agency or a user of
150 your credit report.”

151 (i) Violations of any provision of this section shall constitute
152 and unfair and deceptive trade practice pursuant to the provisions
153 of chapter ninety-three A.

1 SECTION 4. Said chapter 93 is hereby amended by inserting
2 after section 55 the following section:—

3 Section 55A. (a) Any data collector who owns or uses the per-
4 sonal information of any resident of the commonwealth shall
5 notify the resident that there has been a breach of the security the
6 personal information following discovery or notification of said
7 breach, without regard for whether or not the data has or has not
8 been accessed by an unauthorized third party for legal or illegal
9 purposes. The disclosure notification shall be made in the most
10 expedient time possible and without unreasonable delay, consis-
11 tent with the legitimate needs of law enforcement, or with any
12 measures necessary to determine the scope of the breach and
13 restore the reasonable integrity security and confidentiality of the
14 data system. The notification required by this section shall be
15 made after the law enforcement agency determines that it will not
16 compromise impede a criminal investigation. For purposes of this
17 section, “notice” to consumers may be written, electronic , or by
18 substitute notice if the agency demonstrates that the cost of pro-
19 viding notice would exceed two hundred fifty thousand dollars or
20 that the affected class of subject persons to be notified exceeds
21 500,000 or the agency does not have sufficient contact informa-

22 tion. Substitute notice shall consist of a e-mail notice when the
23 agency has an e-mail address for the subject persons, conspicuous
24 posting of the notice on the agency's web site page, if the agency
25 maintains one and notification to major statewide media.

26 (b) No person or data collector operating in the commonwealth
27 shall:

28 (1) intentionally communicate or otherwise make available to
29 the general public an individual's Social Security number;

30 (2) print an individual's Social Security number on any card
31 required for the individual to access products or services provided
32 by the person or data collector;

33 (3) require an individual to transmit his or her Social Security
34 number over the Internet, unless the connection is secure or the
35 Social Security number is encrypted;

36 (4) require an individual to use his or her Social Security
37 number to access an Internet Web site, unless a password or
38 unique personal identification number or other authentication
39 device is also required to access the Internet Web site;

40 (5) print an individual's Social Security number on any mate-
41 rials that are mailed to the individual, unless required by law;

42 (6) sell, lease, loan, trade, rent, or otherwise disclose an indi-
43 vidual's Social Security number to a third party for any purpose
44 without written consent to the disclosure from the individual.

45 Nothing in this section shall apply to medical information or
46 documents that are recorded or required to be open to the public
47 pursuant to section 7 of chapter 4.

48 (c) A data collector shall take all reasonable measures to pro-
49 tect against unauthorized access to or use of the information in
50 connection with, or after its disposal including, but not limited to:

51 (1) Implementing and monitoring compliance with polices and
52 procedures that require the burning, pulverizing or shredding of
53 papers containing personal information so that the information
54 cannot practicably be read or reconstructed; and

55 (2) Implementing and monitoring compliance with policies and
56 procedures that require the destruction or erasure of electronic
57 media and other non-paper media containing personal information
58 so that the information cannot practicably be read or recon-
59 structed.

60 (d) Violations of any provision of this section shall constitute
61 and unfair and deceptive trade practice pursuant to the provisions
62 of chapter ninety-three A.

1 SECTION 5. Section 59 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the word “year”, in line 23, the
3 following words:— “;provided further that a consumer under this
4 paragraph shall be entitled to 11 complete consumer reports per
5 calendar year for a reasonable fee not to exceed 3 dollars.”

1 SECTION 6. Section 59 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the word “year”, in line 29, the
3 following words:— “;provided further that a consumer under this
4 paragraph shall be entitled to 11 complete consumer reports per
5 calendar year for a reasonable fee not to exceed 3 dollars.”

1 SECTION 7. Section 37E of chapter 266, of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking out, in line 25, the words “\$5000 or imprisonment in a
4 house of correction for not more than two and one half years” and
5 inserting in place thereof the following words:—

6 “\$10,000 or imprisonment for not less than two and one half
7 years or more than ten years”

1 SECTION 8. Section 37E of said chapter 266, as so appearing,
2 is hereby amended by striking out, in line 36, the words “\$5000
3 or imprisonment in a house of correction for not more than two
4 and one half years” and inserting in place thereof the following
5 words:—

6 “\$10,000 or imprisonment for not less than two and one half
7 years or more than ten years”

1 SECTION 9. Section 37E of said chapter 266, as so appearing,
2 is hereby amended by inserting the following:—

3 (f) A victim who reasonably believes that his or her personal
4 identifying information has been unlawfully used in violation of
5 this section may initiate a law enforcement investigation by con-
6 tacting the local law enforcement agency that has jurisdiction
7 over his or her actual residence or by contacting a local law

8 enforcement agency that has jurisdiction over any location where
9 his or her personal identifying information has been unlawfully
10 used. Said law enforcement agency shall provide the victim with
11 a written report of the incident and may begin an investigation of
12 the facts or, if the suspected crime was committed in a different
13 jurisdiction, refer the matter to the law enforcement agency where
14 the suspected crime was committed for an investigation of the
15 facts. Nothing in this section shall interfere with the discretion of
16 a local police department to allocate resources for investigations
17 of crimes and a complaint filed under this section is shall not be
18 counted as an open case for the purpose compiling open case sta-
19 tistics.

The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various projects and the results achieved. The report concludes with a summary of the work done and the plans for the future.

The work has been carried out in accordance with the programme of work approved by the Council of the Society in 1910. The main objects of the work have been to collect and describe the plants and animals of the country, and to study their habits and life histories. The work has been carried out in the most thorough and systematic manner, and the results are of the highest value.

The following table gives a summary of the work done during the year:

Project	Number of specimens collected	Number of specimens described
Plants	1,200	1,000
Animals	800	600
Fossils	500	400
Minerals	300	200
Geology	200	150
Botany	100	80
Zoology	100	80
Geography	100	80
History	100	80
Language	100	80
Other	100	80

The work has been carried out in the most thorough and systematic manner, and the results are of the highest value. The following table gives a summary of the work done during the year:

