

IN THE SENATE

SENATE BILL NO. 1066

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO IDENTITY THEFT; AMENDING SECTION 28-51-105, IDAHO CODE, TO RE-
2 QUIRE DISCLOSURE OF A SECURITY BREACH OF PERSONAL INFORMATION HELD BY
3 A TAX PREPARER TO THE IDAHO STATE TAX COMMISSION AND TO MAKE TECHNICAL
4 CORRECTIONS; AND DECLARING AN EMERGENCY.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 28-51-105, Idaho Code, be, and the same is
8 hereby amended to read as follows:

9 28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED PERSONAL
10 INFORMATION BY AN AGENCY, INDIVIDUAL OR A COMMERCIAL ENTITY. (1) A city,
11 county or state agency, individual or a commercial entity that conducts
12 business in Idaho and that owns or licenses computerized data that includes
13 personal information about a resident of Idaho shall, when it becomes aware
14 of a breach of the security of the system, conduct in good faith a reasonable
15 and prompt investigation to determine the likelihood that personal informa-
16 tion has been or will be misused. If the investigation determines that the
17 misuse of information about an Idaho resident has occurred or is reasonably
18 likely to occur, the agency, individual or the commercial entity shall give
19 notice as soon as possible to the affected Idaho resident. Notice must be
20 made in the most expedient time possible and without unreasonable delay,
21 consistent with the legitimate needs of law enforcement and consistent with
22 any measures necessary to determine the scope of the breach, to identify the
23 individuals affected, and to restore the reasonable integrity of the comput-
24 erized data system.

25 When an agency becomes aware of a breach of the security of the system,
26 it shall, within twenty-four (24) hours of such discovery, notify the office
27 of the Idaho attorney general. Nothing contained in this section relieves
28 a state agency's responsibility to report a security breach to the office of
29 the chief information officer within the department of administration, pur-
30 suant to the Idaho technology authority policies.

31 Any governmental employee who intentionally discloses personal infor-
32 mation not subject to disclosure otherwise allowed by law is guilty of a mis-
33 demeanor and, upon conviction thereof, shall be punished by a fine of not
34 more than two thousand dollars (\$2,000), or by imprisonment in the county
35 jail for a period of not more than one (1) year, or both.

36 (2) An agency, individual or a commercial entity that maintains comput-
37 erized data that includes personal information that the agency, individual
38 or the commercial entity does not own or license shall give notice to and co-
39 operate with the owner or licensee of the information of any breach of the
40 security of the system immediately following discovery of a breach if misuse
41 of personal information about an Idaho resident occurred or is reasonably

1 likely to occur. Cooperation includes sharing with the owner or licensee in-
2 formation relevant to the breach.

3 (3) If the breach of security of computerized personal information in-
4 volves an individual or commercial entity that prepares Idaho state tax re-
5 turns and could possibly result in compromising any tax return or tax in-
6 formation, as defined in section 63-3076(5), Idaho Code, that individual or
7 commercial entity shall give notice as prescribed by rule to the Idaho state
8 tax commission as soon as possible, but no later than five (5) business days,
9 after confirmation of the breach of security of the system.

10 (4) Notice required by this section may be delayed if a law enforcement
11 agency advises the agency, individual or commercial entity that the notice
12 will impede a criminal investigation. Notice required by this section must
13 be made in good faith, without unreasonable delay and as soon as possible af-
14 ter the law enforcement agency advises the agency, individual or commercial
15 entity that notification will no longer impede the investigation.

16 SECTION 2. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after its
18 passage and approval.