



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2977

Introduced 1/20/2006, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

220 ILCS 5/13-910 new
220 ILCS 5/13-911 new
225 ILCS 447/40-10
720 ILCS 110/2 from Ch. 38, par. 87-2
720 ILCS 110/4 new
815 ILCS 505/2Z from Ch. 121 1/2, par. 262Z

Amends the Telecommunications Article of the Public Utilities Act. Prohibits any telecommunications carrier from releasing the customer proprietary network information or personal identifying information of any end user with an Illinois billing address or an Illinois area code, except under specified circumstances. Requires the Illinois Commerce Commission to adopt rules to regulate the security of customer proprietary network information and personal identifying information. Requires a telecommunications carrier to provide notice to an Illinois resident (i) in the event of a breach of customer property network information or personal identifying information concerning an Illinois resident or (ii) if the carrier discovers or has reason to believe that customer proprietary network information or personal identifying information concerning the Illinois resident was acquired by an unauthorized person. Sets forth penalties for failure to comply with the provisions. Amends the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 to authorize the Department of Financial and Professional Regulation to impose disciplinary sanctions against any licensee for purchasing, acquiring, selling, or releasing the customer proprietary network information or personal identifying information of an Illinois resident. Amends the Communications Consumer Privacy Act. Provides that it is an unlawful business offense for a customer proprietary network information broker to purchase, acquire, sell, or release customer proprietary network information or personal identifying information of an Illinois resident. Sets forth penalties for violations. Amends the Consumer Fraud and Deceptive Business Practices Act to provide that any person who knowingly violates certain provisions of the Public Utilities Act prohibiting the release of the customer proprietary network information or personal identifying information of any end user commits an unlawful practice within the meaning of the Act. Effective immediately.

LRB094 19079 MKM 54587 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning telecommunications.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Findings.

5 (a) The General Assembly finds and declares that
6 unauthorized access and use of customer proprietary network
7 information and personal identifying information endanger the
8 safety, security, and privacy of Illinois telecommunications
9 end users and Illinois residents and it is therefore in the
10 public interest to ensure that this information is not released
11 without the express consent of the end user or the end user's
12 authorized representative.

13 (b) The General Assembly further finds and declares that
14 the widespread availability of and unauthorized access to
15 customer proprietary network information and personal
16 identifying information have led to and will continue to lead
17 to a substantial increase in identity theft-related crimes and
18 other crimes.

19 Section 5. The Public Utilities Act is amended by adding
20 Sections 13-910 and 13-911 as follows:

21 (220 ILCS 5/13-910 new)

22 Sec. 13-910. Customer proprietary network information.

23 (a) As used in this Section:

24 "Customer proprietary network information" means: (i)
25 information maintained by a telecommunications carrier that
26 relates to the quantity, technical configuration, type,
27 destination, and amount of use of any telecommunications
28 service subscribed to by an end user of the telecommunications
29 carrier and that is made available to the carrier by the end
30 user solely by virtue of its relationship with the carrier;
31 (ii) information contained in the end user's billing statement

1 pertaining to telecommunications services received by the end
2 user from a telecommunications carrier; and (iii) information
3 identifying the location of the end user or that may be used to
4 identify the location of an end user.

5 "End user" means that term as it is defined in Section
6 13-217 of this Act.

7 "Personal identifying information" means that term as it is
8 defined in subsection (b) of Section 16G-10 of the Criminal
9 Code of 1961.

10 (b) No telecommunications carrier may release the customer
11 proprietary network information or personal identifying
12 information of any end user with an Illinois billing address or
13 an Illinois area code without the express consent of the end
14 user, except with proper law enforcement or court order
15 documentation.

16 (c) Within one year after the effective date of this
17 amendatory Act of the 94th General Assembly, the Commission
18 must adopt rules to regulate the security of customer
19 proprietary network information and personal identifying
20 information including, but not limited to, all of the following
21 provisions:

22 (1) Security standards to protect the confidentiality
23 of data records containing customer proprietary network
24 information and personal identifying information.

25 (2) Authentication procedures necessary to provide
26 access by the end user or the end user's authorized
27 representative to the end user's customer proprietary
28 network information and personal identifying information.

29 (3) Reporting requirements for telecommunications
30 carriers, remedies, and other enforcement mechanisms to
31 ensure compliance with this Section.

32 The rules may allow for an implementation period of up to
33 one year for a telecommunications carrier to implement the
34 rules adopted by the Commission in accordance with this Section
35 if the Commission determines that immediate and full compliance
36 with the rules would be unduly economically burdensome or

1 technically infeasible for the telecommunications carrier.

2 (d) No provision of this Section shall be construed to
3 prohibit a telecommunications carrier from obtaining, using,
4 releasing, or permitting access to any customer proprietary
5 network information or personal identifying information of any
6 end user with an Illinois billing address or an Illinois area
7 code as follows:

8 (1) as otherwise authorized by law;

9 (2) with the lawful consent of the end user or the end
10 user's designated representative;

11 (3) as necessary for the provision of services, for the
12 protection of the rights or property of the provider, for
13 the protection of end users, and for the protection of
14 other telecommunications carriers from fraudulent,
15 abusive, or unlawful use of or subscription to services;

16 (4) to a governmental entity, if the telecommunication
17 carrier reasonably believes that an emergency involving
18 immediate danger of death or serious physical injury to any
19 person justifies disclosure of the information; or

20 (5) to the National Center for Missing and Exploited
21 Children, in connection with the report submitted thereto
22 under Section 227 of the federal Victims of Child Abuse Act
23 of 1990.

24 (220 ILCS 5/13-911 new)

25 Sec. 13-911. Breach of customer proprietary network
26 information.

27 (a) As used in the Section:

28 "Breach of customer proprietary network information" means
29 the unauthorized acquisition of customer proprietary network
30 information or personal identifying information that
31 compromises the security, confidentiality, or integrity of
32 that information as maintained by the telecommunications
33 carrier.

34 "Customer proprietary network information" means that term
35 as it defined in Section 13-910.

1 "Personal identifying information" means that term as it is
2 defined in subsection (b) of Section 16G-10 of the Criminal
3 Code of 1961.

4 "Customer proprietary network information" and "personal
5 identifying information" do not include publicly available
6 information that is lawfully made available to the general
7 public from federal, State, or local government records.

8 (b) In the event of a breach of customer proprietary
9 network information or personal identifying information
10 concerning an Illinois resident, the telecommunications
11 carrier must notify the Illinois resident immediately
12 following discovery or notification of the breach. The notice
13 must be made in the most expedient manner possible and without
14 unreasonable delay, consistent with any measures necessary to
15 determine the scope of the breach and restore the reasonable
16 integrity, security, and confidentiality of the customer
17 proprietary network information or personal identifying
18 information.

19 (c) If the telecommunications carrier discovers or has
20 reason to believe that customer proprietary network
21 information or personal identifying information concerning an
22 Illinois resident was acquired by an unauthorized person, the
23 telecommunications carrier must immediately notify the
24 Illinois resident and disclose any breach or suspected breach
25 of customer proprietary information or personal identifying
26 information. The notice must be made in the most expedient
27 manner possible and without unreasonable delay, consistent
28 with any measures necessary to determine the scope of the
29 acquisition by an unauthorized person and to restore the
30 reasonable integrity, security, and confidentiality of the
31 customer proprietary network information or personal
32 identifying information.

33 (d) For purposes of this Section, notice to Illinois
34 residents under this Section may be provided by any one of the
35 following methods:

36 (1) written notice;

1 (2) electronic notice, if the notice provided is
2 consistent with the provisions regarding electronic
3 records and signatures for notices legally required to be
4 in writing, as set forth in Section 7001 of Title 15 of the
5 United States Code; or

6 (3) substitute notice, if the telecommunications
7 carrier demonstrates that the cost of providing notice
8 would exceed \$250,000 or that the affected class of subject
9 persons to be notified exceeds 500,000, or if the
10 telecommunications carrier does not have sufficient
11 contact information. Substitute notice shall consist of
12 all of the following: (i) e-mail notice if the
13 telecommunications carrier has an e-mail address for the
14 subject persons; (ii) conspicuous posting of the notice on
15 the telecommunication carrier's website, if the
16 telecommunications carrier maintains one; and (iii) notice
17 to major statewide media.

18 (e) Notwithstanding any other provision of this Section to
19 the contrary, if a telecommunications carrier maintains its own
20 notice procedures as part of a security policy for the
21 treatment of customer proprietary network information or
22 personal identifying information that is otherwise consistent
23 with the timing requirements of this Section, then that carrier
24 shall be deemed to be in compliance with the notice
25 requirements of this Section if the telecommunications carrier
26 notifies Illinois residents in accordance with its policies in
27 the event of a breach of the security of customer proprietary
28 network information or personal identifying information.

29 (f) Any waiver of the provisions of this Section is
30 contrary to public policy and is void and unenforceable.

31 (g) A violation of this Section constitutes an unlawful
32 practice under the Consumer Fraud and Deceptive Business
33 Practices Act.

34 Section 10. The Private Detective, Private Alarm, Private
35 Security, and Locksmith Act of 2004 is amended by changing

1 Section 40-10 as follows:

2 (225 ILCS 447/40-10)

3 (Section scheduled to be repealed on January 1, 2014)

4 Sec. 40-10. Disciplinary sanctions.

5 (a) The Department may deny issuance, refuse to renew, or
6 restore or may reprimand, place on probation, suspend, or
7 revoke any license, registration, permanent employee
8 registration card, or firearm authorization card, and it may
9 impose a fine not to exceed \$1,500 for a first violation and
10 not to exceed \$5,000 for a second or subsequent violation for
11 any of the following:

12 (1) Fraud or deception in obtaining or renewing of a
13 license or registration.

14 (2) Professional incompetence as manifested by poor
15 standards of service.

16 (3) Engaging in dishonorable, unethical, or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public.

19 (4) Conviction in Illinois or another state of any
20 crime that is a felony under the laws of Illinois; a felony
21 in a federal court; a misdemeanor, an essential element of
22 which is dishonesty; or directly related to professional
23 practice.

24 (5) Performing any services in a grossly negligent
25 manner or permitting any of a licensee's employees to
26 perform services in a grossly negligent manner, regardless
27 of whether actual damage to the public is established.

28 (6) Continued practice, although the person has become
29 unfit to practice due to any of the following:

30 (A) Physical illness, including, but not limited
31 to, deterioration through the aging process or loss of
32 motor skills that results in the inability to serve the
33 public with reasonable judgment, skill, or safety.

34 (B) Mental disability demonstrated by the entry of
35 an order or judgment by a court that a person is in

1 need of mental treatment or is incompetent.

2 (C) Addiction to or dependency on alcohol or drugs
3 that is likely to endanger the public. If the
4 Department has reasonable cause to believe that a
5 person is addicted to or dependent on alcohol or drugs
6 that may endanger the public, the Department may
7 require the person to undergo an examination to
8 determine the extent of the addiction or dependency.

9 (7) Receiving, directly or indirectly, compensation
10 for any services not rendered.

11 (8) Willfully deceiving or defrauding the public on a
12 material matter.

13 (9) Failing to account for or remit any moneys or
14 documents coming into the licensee's possession that
15 belong to another person or entity.

16 (10) Discipline by another United States jurisdiction
17 or foreign nation, if at least one of the grounds for the
18 discipline is the same or substantially equivalent to those
19 set forth in this Act.

20 (11) Giving differential treatment to a person that is
21 to that person's detriment because of race, color, creed,
22 sex, religion, or national origin.

23 (12) Engaging in false or misleading advertising.

24 (13) Aiding, assisting, or willingly permitting
25 another person to violate this Act or rules promulgated
26 under it.

27 (14) Performing and charging for services without
28 authorization to do so from the person or entity serviced.

29 (15) Directly or indirectly offering or accepting any
30 benefit to or from any employee, agent, or fiduciary
31 without the consent of the latter's employer or principal
32 with intent to or the understanding that this action will
33 influence his or her conduct in relation to his or her
34 employer's or principal's affairs.

35 (16) Violation of any disciplinary order imposed on a
36 licensee by the Department.

1 (17) Failing to comply with any provision of this Act
2 or rule promulgated under it.

3 (18) Conducting an agency without a valid license.

4 (19) Revealing confidential information, except as
5 required by law, including but not limited to information
6 available under Section 2-123 of the Illinois Vehicle Code.

7 (20) Failing to make available to the Department, upon
8 request, any books, records, or forms required by this Act.

9 (21) Failing, within 30 days, to respond to a written
10 request for information from the Department.

11 (22) Failing to provide employment information or
12 experience information required by the Department
13 regarding an applicant for licensure.

14 (23) Failing to make available to the Department at the
15 time of the request any indicia of licensure or
16 registration issued under this Act.

17 (24) Purporting to be a licensee-in-charge of an agency
18 without active participation in the agency.

19 (25) Purchasing, acquiring, selling, or releasing the
20 customer proprietary network information or personal
21 identifying information of any third party who is an
22 Illinois resident. For purposes of this Section, "customer
23 proprietary network information" means that term as it is
24 defined in Section 13-910 of the Public Utilities Act and
25 "personal identifying information" means that term as it is
26 defined in subsection (b) of Section 16G-10 of the Criminal
27 Code of 1961.

28 (b) The Department shall seek to be consistent in the
29 application of disciplinary sanctions.

30 (Source: P.A. 93-438, eff. 8-5-03.)

31 Section 15. The Communications Consumer Privacy Act is
32 amended by changing Section 2 and by adding Section 4 as
33 follows:

34 (720 ILCS 110/2) (from Ch. 38, par. 87-2)

1 Sec. 2. Definitions. For purposes of this Act:7

2 "Communications Company" means any person or organization
3 which owns, controls, operates or manages any company which
4 provides information or entertainment electronically to a
5 household, including but not limited to a cable or community
6 antenna television system.

7 "Customer proprietary network information broker" means
8 any person or organization that purchases, acquires, sells, or
9 releases the customer proprietary network information of any
10 third party or that attempts to purchase, acquire, sell, or
11 release the customer proprietary network information of any
12 third party.

13 "Customer proprietary network information" means that term
14 as it is defined in Section 13-901 of the Public Utilities Act.

15 "End user" means that term as it is defined in Section
16 13-217 of the Public Utilities Act.

17 "Personal identifying information" means that term as it is
18 defined in subsection (b) of Section 16G-10 of the Criminal
19 Code of 1961.

20 "Telecommunications carrier" means that term as it is
21 defined in Section 13-202 of the Public Utilities Act.

22 (Source: P.A. 82-526.)

23 (720 ILCS 110/4 new)

24 Sec. 4. Customer proprietary network information;
25 purchase, acquisition, sale, or release prohibited.

26 (a) It is unlawful for any customer proprietary network
27 information broker to purchase, acquire, sell, or release the
28 customer proprietary network information or any personal
29 identifying information of any third party who is an Illinois
30 resident or to attempt to purchase, acquire, sell, or release
31 the customer proprietary network information or any personal
32 identifying information of any third party who is an Illinois
33 resident. This Section applies whether the customer
34 proprietary network information is obtained by the customer
35 proprietary network information broker directly from a

1 telecommunications carrier or from any other third party
2 source. For purposes of this Section, an individual is an
3 Illinois resident if the individual has an Illinois billing
4 address or an Illinois area code.

5 (b) A violation of any provision of this Section is a
6 business offense punishable by a fine in an amount not to
7 exceed \$10,000 for each violation. Each item of customer
8 proprietary network information or personal identifying
9 information purchased, acquired, sold, or released and each
10 attempt to purchase, acquire, sell, or release customer
11 proprietary network information constitutes a separate
12 violation of this Section. Any person who has been injured by a
13 violation of this Section may commence an action in circuit
14 court for damages against the customer proprietary network
15 information broker who committed the violation. If the court
16 awards damages to the plaintiff in any action brought under
17 this Section, the court shall awarded the plaintiff court costs
18 and attorney's fees.

19 (c) No provision of this Section shall be construed to
20 prevent any action by a law enforcement agency or any officer,
21 employee, or agent of a law enforcement agency, to obtain the
22 customer proprietary network information or personal
23 identifying information of any third party who is an Illinois
24 resident in connection with the performance of the official
25 duties of the agency, officer, employee, or agent.

26 Section 20. The Consumer Fraud and Deceptive Business
27 Practices Act is amended by changing Section 2Z as follows:

28 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

29 Sec. 2Z. Violations of other Acts. Any person who knowingly
30 violates the Automotive Repair Act, the Automotive Collision
31 Repair Act, the Home Repair and Remodeling Act, the Dance
32 Studio Act, the Physical Fitness Services Act, the Hearing
33 Instrument Consumer Protection Act, the Illinois Union Label
34 Act, the Job Referral and Job Listing Services Consumer

1 Protection Act, the Travel Promotion Consumer Protection Act,
2 the Credit Services Organizations Act, the Automatic Telephone
3 Dialers Act, the Pay-Per-Call Services Consumer Protection
4 Act, the Telephone Solicitations Act, the Illinois Funeral or
5 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
6 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
7 Loan Act, the Payday Loan Reform Act, subsection (a) or (b) of
8 Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform
9 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
10 Tax Act, the Electronic Mail Act, paragraph (6) of subsection
11 (k) of Section 6-305 of the Illinois Vehicle Code, Article 3 of
12 the Residential Real Property Disclosure Act, the Automatic
13 Contract Renewal Act, Section 13-911 of the Public Utilities
14 Act, or the Personal Information Protection Act commits an
15 unlawful practice within the meaning of this Act.

16 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
17 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
18 eff. 1-1-06; revised 8-19-05.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.