

50-7a02. Security breach; requirements. (a) A person that conducts business in this state, or a government, governmental subdivision or agency that owns or licenses computerized data that includes personal information shall, when it becomes aware of any breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that the misuse of information has occurred or is reasonably likely to occur, the person or government, governmental subdivision or agency shall give notice as soon as possible to the affected Kansas resident. Notice must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

(b) An individual or a commercial entity that maintains computerized data that includes personal information that the individual or the commercial entity does not own or license shall give notice to the owner or licensee of the information of any breach of the security of the data following discovery of a breach, if the personal information was, or is reasonably believed to have been, accessed and acquired by an unauthorized person.

(c) Notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by this section shall be made in good faith, without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.

(d) Notwithstanding any other provision in this section, an individual or a commercial entity that maintains its own notification procedures as part of an information security policy for the treatment of personal information, and whose procedures are otherwise consistent with the timing requirements of this section, is deemed to be in compliance with the notice requirements of this section if the individual or the commercial entity notifies affected consumers in accordance with its policies in the event of a breach of security of the system.

(e) An individual or a commercial entity that is regulated by state or federal law and that maintains procedures for a breach of the security of the system pursuant to the laws, rules, regulations, guidances or guidelines established by its primary or functional state or federal regulator is deemed to be in compliance with this section. This section does not relieve an individual or a commercial entity from a duty to comply with other requirements of state and federal law regarding the protection and privacy of personal information.

(f) In the event that a person discovers circumstances requiring notification pursuant to this section of more than 1,000 consumers at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1681a(p), of the timing, distribution and content of the notices.

(g) For violations of this section, except as to insurance companies licensed to do business in this state, the attorney general is empowered to bring an action in law or equity to address violations of this section and for other relief that may be appropriate. The provisions of this section are not exclusive and do not relieve an individual or a commercial entity subject to this section from compliance with all other applicable provisions of law.

(h) For violations of this section by an insurance company licensed to do business in this state, the insurance commissioner shall have the sole authority to enforce the provisions of this section.

History: L. 2006, ch. 149, § 4; July 1.