

ALM GL ch. 93H, § 3

Current through Chapter 59 of the 2024 Legislative Session of the 193rd General Court

Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE XV REGULATION OF TRADE (Chs. 93 - 110H) > TITLE XV REGULATION OF TRADE (Chs. 93 — 110H) > Chapter 93H Security Breaches (§§ 1 — 6)

§ 3. Notice of Security Breach Required.

(a) A person or agency that maintains or stores, but does not own or license data that includes personal information about a resident of the commonwealth, shall provide notice, as soon as practicable and without unreasonable delay, when such person or agency (1) knows or has reason to know of a breach of security or (2) when the person or agency knows or has reason to know that the personal information of such resident was acquired or used by an unauthorized person or used for an unauthorized purpose, to the owner or licensor in accordance with this chapter. In addition to providing notice as provided herein, such person or agency shall cooperate with the owner or licensor of such information. Such cooperation shall include, but not be limited to, informing the owner or licensor of the breach of security or unauthorized acquisition or use, the date or approximate date of such incident and the nature thereof, and any steps the person or agency has taken or plans to take relating to the incident, except that such cooperation shall not be deemed to require the disclosure of confidential business information or trade secrets, or to provide notice to a resident that may have been affected by the breach of security or unauthorized acquisition or use.

(b) A person or agency that owns or licenses data that includes personal information about a resident of the commonwealth, shall provide notice, as soon as practicable and without unreasonable delay, when such person or agency (1) knows or has reason to know of a breach of security or (2) when the person or agency knows or has reason to know that the personal information of such resident was acquired or used by an unauthorized person or used for an unauthorized purpose, to the attorney general, the director of consumer affairs and business regulation and to such resident, in accordance with this chapter. The notice to be provided to the attorney general and said director, and consumer reporting agencies or state agencies if any, shall include, but not be limited to: (i) the nature of the breach of security or unauthorized acquisition or use; (ii) the number of residents of the commonwealth affected by such incident at the time of notification; (iii) the name and address of the person or agency that experienced the breach of security; (iv) name and title of the person or agency reporting the breach of security, and their relationship to the person or agency that experienced the breach of security; (v) the type of person or agency reporting the breach of security; (vi) the person responsible for the breach of security, if known; (vii) the type of personal information compromised, including, but not limited to, social security number, driver's license number, financial account number, credit or debit card number or other data; (viii) whether the person or agency maintains a written information security program; and (ix) any steps the person or agency has taken or plans to take relating to the incident, including updating the written information security program. A person who experienced a breach of security

shall file a report with the attorney general and the director of consumer affairs and business regulation certifying their credit monitoring services comply with section 3A.

Upon receipt of this notice, the director of consumer affairs and business regulation shall identify any relevant consumer reporting agency or state agency, as deemed appropriate by said director, and forward the names of the identified consumer reporting agencies and state agencies to the notifying person or agency. Such person or agency shall, as soon as practicable and without unreasonable delay, also provide notice, in accordance with this chapter, to the consumer reporting agencies and state agencies identified by the director of consumer affairs and business regulation.

The notice to be provided to the resident shall include, but shall not be limited to: (i) the resident's right to obtain a police report; (ii) how a resident may request a security freeze and the necessary information to be provided when requesting the security freeze; (iii) that there shall be no charge for a security freeze; and (iv) mitigation services to be provided pursuant to this chapter; provided, however, that said notice shall not include the nature of the breach of security or unauthorized acquisition or use, or the number of residents of the commonwealth affected by said breach of security or unauthorized access or use. The person or agency that experienced the breach of security shall provide a sample copy of the notice it sent to consumers to the attorney general and the office of consumer affairs and business regulation. A notice provided pursuant to this section shall not be delayed on grounds that the total number of residents affected is not yet ascertained. In such case, and where otherwise necessary to update or correct the information required, a person or agency shall provide additional notice as soon as practicable and without unreasonable delay upon learning such additional information.

(c) As practicable and as not to impede active investigation by the attorney general or other law enforcement agency, the office of consumer affairs and business regulation shall: (i) make available electronic copies of the sample notice sent to consumers on its website and post such notice within 1 business day upon receipt from the person that experienced a breach of security; (ii) update the breach of security notification report on its website as soon as practically possible after the information has been verified by said office but not more than 10 business days after receipt unless the information provided is not verifiable; provided, however, that the office shall post said notice as soon as verified; (iii) amend, on a recurring basis, the breach of security notification report to include new information discovered through the investigation process or new subsequent findings from a previously reported breach of security; and (iv) instruct consumers on how they may file a public records request to obtain a copy of the notice provided to the attorney general and said director from the person who experienced a breach of security.

(d) If the person or agency that experienced a breach of security is owned by another person or corporation, the notice to the consumer shall include the name of the parent or affiliated corporation.

(e) If an agency is within the executive department, it shall provide written notification of the nature and circumstances of the breach of security or unauthorized acquisition or use to the executive office of technology services and security and the division of public records in the office of the state secretary as soon as practicable and without unreasonable delay following the discovery of a breach of security or unauthorized acquisition or use, and shall comply with all policies and procedures adopted by the executive office of technology services and security pertaining to the reporting and investigation of such an incident.

(f) The department of consumer affairs and business regulation may promulgate regulations interpreting and applying this section.

History

2007, 82, § 16; 2018, 444, §§ 8-10, effective April 10, 2019.

Annotated Laws of Massachusetts
Copyright © 2024 All rights reserved.

End of Document