

## **30-14-1704, MCA**

Current through all 2023 legislation, inclusive of the final Chapter 783 of the 68th Legislature's concluded Regular session.

*LexisNexis® Montana Code Annotated > Title 30 Trade and Commerce (Chs. 1 — 23) > Chapter 14 Unfair Trade Practices and Consumer Protection (Pts. 1 — 28) > Part 17 Impediment of Identity Theft (§§ 30-14-1701 — 30-14-1736)*

### **30-14-1704 Computer security breach.**

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- (1) Any person or business that conducts business in Montana and that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the data system following discovery or notification of the breach to any resident of Montana whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The disclosure must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.
- (2) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data system immediately following discovery if the personal information was or is reasonably believed to have been acquired by an unauthorized person.
- (3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay in notification. The notification required by this section must be made after the law enforcement agency determines that it will not compromise the investigation.
- (4) For purposes of this section, the following definitions apply:

  - (a) “Breach of the security of the data system” means unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by the person or business and causes or is reasonably believed to cause loss or injury to a Montana resident. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the data system, provided that the personal information is not used or subject to further unauthorized disclosure.
  - (b)

    - (i) “Personal information” means an individual’s first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (A) social security number;
- (B) driver's license number, state identification card number, or tribal identification card number;
- (C) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account;
- (D) medical record information as defined in 33-19-104;
- (E) a taxpayer identification number; or
- (F) an identity protection personal identification number issued by the United States internal revenue service.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(5)

(a) For purposes of this section, notice may be provided by one of the following methods:

- (i) written notice;
- (ii) electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. 7001;
- (iii) telephonic notice; or
- (iv) substitute notice, if the person or business demonstrates that:
  - (A) the cost of providing notice would exceed \$250,000;
  - (B) the affected class of subject persons to be notified exceeds 500,000; or
  - (C) the person or business does not have sufficient contact information.

(b) Substitute notice must consist of the following:

- (i) an electronic mail notice when the person or business has an electronic mail address for the subject persons; and
- (ii) conspicuous posting of the notice on the website page of the person or business if the person or business maintains one; or
- (iii) notification to applicable local or statewide media.

(6) Notwithstanding subsection (5), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and that does not unreasonably delay notice is considered to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the data system.

(7) If a business discloses a security breach to any individual pursuant to this section and gives a notice to the individual that suggests, indicates, or implies to the individual that the individual may obtain a copy of the file on the individual from a consumer credit reporting agency, the business shall coordinate with the consumer reporting agency as to the timing, content, and distribution of

the notice to the individual. The coordination may not unreasonably delay the notice to the affected individuals.

(8) Any person or business that is required to issue a notification pursuant to this section shall simultaneously submit an electronic copy of the notification and a statement providing the date and method of distribution of the notification to the attorney general's consumer protection office, excluding any information that personally identifies any individual who is entitled to receive notification. If a notification is made to more than one individual, a single copy of the notification must be submitted that indicates the number of individuals in the state who received notification.

## History

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En. Sec. 7, Ch. 518, L. 2005; amd. Sec. 3, Ch. 180, L. 2007; § 3, Ch. 74, L. 2015, effective October 1, 2015.

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