

A08992 Text:

STATE OF NEW YORK

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Cal. No. 422

IN ASSEMBLY

January 12, 2012

Introduced by M. of A. DINOWITZ, GLICK, GUNTHER, MILLMAN, REILLY, GABRYSZAK, ORTIZ, GALEF, MAISEL, COLTON, M. MILLER, P. RIVERA, WEINSTEIN -- Multi-Sponsored by -- M. of A. CASTRO, COOK, ENGLEBRIGHT, LIFTON, MAGEE, MARKEY, D. MILLER, RA, SCHIMEL, SWEENEY, THIELE, WEIS-

ENBERG -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the disclosure of social security numbers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The general business law is amended by adding a new section
- 2 399-ddd to read as follows:
- 3 § 399-ddd. Disclosure of social security number. 1. As used in this
- 4 section, "social security account number" shall include the number
- 5 issued by the federal social security administration and any number
- 6 derived from such number. Such term shall not include any number that
- 7 has been encrypted.
- 8 2. No person, firm, partnership, association or corporation, not
- 9 including the state or its political subdivisions, shall require an
- 10 individual to disclose or furnish his or her social security account
- 11 number, for any purpose in connection with any activity, or to refuse
- 12 any service, privilege or right to an individual wholly or partly
- 13 because such individual refuses to disclose or furnish such number,
- 14 unless one of the exceptions enumerated in subdivision three of this
- 15 section applies.
- 16 3. The provisions of this section shall not apply in the following
- 17 instances:
- 18 (a) The individual consents to the acquisition or use of his or her
- 19 social security account number.
- 20 (b) The social security account number is expressly required by feder-
- 21 al, state, or local law or regulation.
- 22 (c) The social security account number is to be used for internal
- 23 verification or fraud investigation.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (d) The social security account number is to be used for any business
2 function permitted or allowed under the Gramm Leach Bliley Act, P.L.
3 106-102 (1999).

4 (e) The social security account number is requested in connection with
5 a request for credit or a credit transaction initiated by the consumer
6 or in connection with a lawful request for a consumer report or investi-
7 gative consumer report, as such terms are defined in section three
8 hundred eighty-a of this chapter.

9 (f) The social security account number is requested in connection with
10 a deposit account or an investment.

11 (g) The social security account number is requested for purposes of
12 employment, including in the course of the administration of a claim,
13 benefit, or procedure related to the individual's employment by the
14 person, including the individual's termination from employment, retire-

15 ment from employment, injury suffered during the course of employment,
16 or to check on an unemployment insurance claim of the individual.

17 (h) The social security account number is requested for purposes of
18 tax compliance.

19 (i) The social security account number is requested for the purpose
20 of:

21 i. the collection of child or spousal support;

22 ii. determining whether an individual has a criminal record; or

23 iii. blood or organ donation.

24 (j) The social security account number is requested in connection with
25 any interaction with a governmental law enforcement agency or is used in
26 conjunction with the enforcement of a judgment of a court of competent
27 jurisdiction by a sheriff or marshal.

28 (k) The social security account number is requested for the purpose of
29 verifying an individual's identity or age in order to allow such indi-
30 vidual to obtain access to, or enroll in, a marketing program that is
31 restricted to individuals of a certain age.

32 (l) i. The social security account number is requested by an individ-
33 ual, firm, corporation, or other entity doing business pursuant to a
34 franchise issued by a political subdivision of the state or a license,
35 franchise, certificate or other authorization issued by the New York
36 state public service commission.

37 ii. The social security account number is requested by an individual,
38 firm, corporation, or other entity regulated by the New York state

39 public service commission, the federal communications commission, or the
40 federal energy regulatory commission.

41 iii. The social security account number is requested by a banking
42 institution, as defined in section nine-f of the banking law, or one of
43 its affiliates.

44 (m) The social security account number is requested by an authorized
45 insurer, as defined in section one hundred seven of the insurance law,
46 for the purpose of furnishing information to the Centers for Medicare
47 and Medicaid Services within the United States Department of Health and
48 Human Services.

49 4. Whenever there shall be a violation of this section, application
50 may be made by the attorney general in the name of the people of the

51 state of New York to a court or justice having jurisdiction by a special
52 proceeding to issue an injunction, and upon notice to the defendant of
53 not less than five days, to enjoin and restrain the continuance of such
54 violation; and if it shall appear to the satisfaction of the court or
55 justice that the defendant has, in fact, violated this section, an
56 injunction may be issued by such court or justice, enjoining and

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1 restraining any further violation, without requiring proof that any
2 person has, in fact, been injured or damaged thereby. In any such
3 proceeding, the court may make allowances to the attorney general as
4 provided in paragraph six of subdivision (a) of section eighty-three
5 hundred three of the civil practice law and rules, and direct restitu-
6 tion. In connection with any such proposed application, the attorney
7 general is authorized to take proof and make a determination of the
8 relevant facts and to issue subpoenas in accordance with the civil prac-
9 tice law and rules. Whenever the court shall determine that a violation
10 of subdivision two of this section has occurred, the court shall impose
11 a civil penalty of not more than five hundred dollars. The second
12 offense and any offense committed thereafter shall be punishable by a
13 civil penalty of not more than one thousand dollars.

14 5. No person, firm, partnership, association or corporation shall be
15 deemed to have violated the provisions of this section if such person,
16 firm, partnership, association or corporation shows, by a preponderance
17 of the evidence, that the violation was not intentional and resulted
18 from a bona fide error made notwithstanding the maintenance of proce-
19 dures reasonably adopted to avoid such error.

20 § 2. This act shall take effect on the one hundred twentieth day after
21 it shall have become a law.