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Labor & Employment Legal Update

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## **New Connecticut Law Heightens Obligations for Businesses to Safeguard Personal Information**

Effective October 1, 2008, any business that collects personal information, including many types of information routinely collected in the course of employment, will be required to implement broad safeguards to protect the collection, storage, and disposal of that information.

The new law, entitled "An Act Concerning the Confidentiality of Social Security Numbers," requires any company or individual in possession of another individual's personal information to protect the information from misuse by third parties, and make such information unreadable prior to disposal. The law is very broad and may extend to companies operating outside of Connecticut that maintain information about Connecticut residents, or Connecticut companies collecting information about out-of-state individuals. The law does not apply to "any agency or political subdivision" of the state of Connecticut.

### **What Does the Law Require?**

#### *Creation of a "Privacy Protection Policy"*

The new law requires any company or individual who collects Social Security numbers to create and publish a privacy protection policy.

#### The Privacy Protection Policy must :

- Protect the confidentiality of Social Security numbers;
- Prohibit unlawful disclosure of Social Security numbers; and
- Limit access to Social Security numbers.

#### Publishing or publicly displaying the policy may include one or more of the following :

- In general:
  - Posting on the Internet
  - Distribution via marketing/advertising materials
- In the workplace:
  - Posting on the employer's intranet or bulletin board
  - Displaying in the employee handbook
  - Distribution via e-mail

#### *Protection and Proper Disposal of Personal Information*

The new law also requires the protection and proper disposal of "personal information," which is defined broadly as "information capable of being associated with a particular individual through one or more identifiers."

#### Personal information includes, but is not limited to :

- Social Security number
- Driver's license number
- State identification card number
- Account number
- Credit or debit card number
- Passport number
- Alien registration number

- Health insurance identification number

Personal information does not include :

- Information lawfully made available to the general public from federal, state or local government records
- Information lawfully made available to the general public via widely distributed media

While the new law does not specify what types of safeguards are required, a comprehensive security program may include administrative, technical, or physical safeguards to protect personal information. Companies should assess what types of information they collect, store and transmit, both electronically and in hard copy, and review where each type of information is stored and who has access to it. Reducing the amount of personal information that is collected and stored will reduce the risk. Generally, personal information should not be collected unless there is a legitimate business reason for doing so.

The new law also requires safeguards for the proper disposal of personal information. Companies will be required to destroy, erase, or make unreadable all files containing personal information. Various technologies exist, depending on the type of file, to appropriately destroy or make unreadable personal information, although the new law does not specify what measure will be deemed acceptable. Paper files and optical media files, such as CDs and DVDs, may be destroyed by shredding or burning the files. Files stored on removable magnetic media, such as USB drives, floppy and ZIP disks, tapes and cartridges, may be disposed of using an appropriately-powered degausser (a device that decreases or eliminates the magnetic field in magnetic media). Internal magnetic media, such as hard drives, may be properly disposed of using software that contains an overwriting process that overwrites all usable storage locations.

### **What are the penalties for violations?**

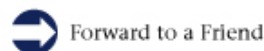
Any person who intentionally violates the law is subject to a penalty of \$500 per violation, not to exceed \$500,000 for any single event.

In most instances, the Department of Consumer Protection will enforce the new law. The law does not provide for a private right of action; in other words, the person whose personal information is compromised cannot sue the person responsible for the compromise. However, the law does not explicitly preclude other causes of action, such as contractual or tort claims, if applicable.

### **What should companies do now?**

Companies should review their security measures and identify potential vulnerabilities. Also, all privacy policies and procedures should be updated, or if not in place, created to comply with the new law. Companies should also coordinate with their information technology management group to ensure that they have the technological resources to safeguard the collection and maintenance of personal information and to properly destroy personal information prior to disposal.

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