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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2388

02/27/2014 Authored by Nelson

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act
1.2 relating to telecommunications; consumer protection; establishing requirements
1.3 for acquisition and resale of wireless communications devices; providing for
1.4 criminal penalties; proposing coding for new law in Minnesota Statutes, chapter
1.5 325E.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [325E.319] WIRELESS COMMUNICATIONS DEVICES;
1.8 ACQUISITION FOR RESALE.

1.9 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms
1.10 have the meanings given them.

1.11 (b) "Law enforcement agency" or "agency" means a duly authorized municipal,
1.12 county, state, or federal law enforcement agency.

1.13 (c) "Person" means an individual, partnership, limited partnership, limited liability
1.14 company, corporation, or other entity.

1.15 (d) "Wireless communications device" has the meaning given in section 169.011,
1.16 subdivision 94.

1.17 Subd. 2. Purchase or acquisition record required. (a) Every person, including
1.18 an agent, employee, or representative of the person, shall keep a written record at the
1.19 time of each purchase or acquisition of a wireless communications device for resale.

1.20 The record must include:

1.21 (1) an accurate account or description of the wireless communications device
1.22 purchased or acquired;

1.23 (2) the date, time, and place the wireless communications device was purchased or
1.24 acquired;

2.1 (3) the name and address of the person selling or delivering the wireless
2.2 communications device;

2.3 (4) the number of the check or electronic transfer used to purchase the wireless
2.4 communications device;

2.5 (5) the number of the seller's or deliverer's driver's license, Minnesota identification
2.6 card number, or other identification number from an identification document issued by any
2.7 state, federal, or foreign government if the document includes the person's photograph,
2.8 full name, birth date, and signature;

2.9 (6) the license plate number and description of the vehicle used by the person when
2.10 delivering the wireless communications device, including any identifying marks on the
2.11 vehicle, such as a business name, decals, or markings, if applicable; and

2.12 (7) a statement signed by the seller, under penalty of perjury as provided in section
2.13 609.48, attesting that the wireless communications device is not stolen and is free of any
2.14 liens or encumbrances and the seller has the right to sell it.

2.15 (b) Records required to be maintained under this subdivision shall be retained by the
2.16 person for a period of three years.

2.17 (c) The record, as well as the wireless communications device purchased or received,
2.18 shall at all reasonable times be available for inspection by any law enforcement agency.

2.19 (d) No record is required for property purchased from merchants, manufacturers,
2.20 or wholesale dealers having an established place of business, but a bill of sale or other
2.21 evidence of open or legitimate purchase of the wireless communications device shall
2.22 be obtained and kept by the person, which must be shown upon demand to any law
2.23 enforcement agency.

2.24 (e) Except as otherwise provided in this section, a person or the person's agent,
2.25 employee, or representative may not disclose personal information concerning a customer
2.26 without the customer's consent unless the disclosure is made in response to a request from
2.27 a law enforcement agency. A person must implement reasonable safeguards to protect the
2.28 security of the personal information and prevent unauthorized access to or disclosure of
2.29 the information. For purposes of this paragraph, "personal information" is any individually
2.30 identifiable information gathered in connection with a record under paragraph (a).

2.31 Subd. 3. **Printed sales ticket.** The following shall be printed on all tickets for sales
2.32 or acquisitions of used wireless communications devices:

2.33 (1) the statement: "The seller of this item attests that it is not stolen, it has no liens or
2.34 encumbrances against it, and the pledgor has the right to sell or pawn the item."; and

2.35 (2) a blank line for the seller's signature.

3.1 Subd. 4. **Records; prohibitions.** A person, including an agent, employee, or
3.2 representative of the person, shall not:

3.3 (1) make any false entry in the records of transactions involving a wireless
3.4 communications device;

3.5 (2) falsify, obliterate, destroy, or remove from the place of business the records,
3.6 books, or accounts relating to wireless communications device transactions;

3.7 (3) refuse to allow the appropriate law enforcement agency to inspect records or any
3.8 wireless communications device in the person's possession during the ordinary hours of
3.9 business or other times acceptable to both parties;

3.10 (4) fail to maintain a record of each wireless communications device transaction
3.11 for three years;

3.12 (5) accept a pledge or purchase property from a person under the age of 18 years;

3.13 (6) make any agreement requiring the personal liability of a pledgor or seller,
3.14 waiving any provision of this section, or providing for a maturity date less than one month
3.15 after the date of the wireless communications device transaction; or

3.16 (7) sell or lease, or agree to sell or lease, pledged or purchased wireless
3.17 communications devices back to the pledgor or seller in the same or a related transaction.

3.18 Subd. 5. **Investigative holds; confiscation of property.** (a) Whenever a law
3.19 enforcement official from any agency has probable cause to believe that a wireless
3.20 communications device in the possession of a person is stolen or is evidence of a crime
3.21 and notifies the dealer not to sell the item, the person shall not (1) process or sell the item,
3.22 or (2) remove or allow its removal from the premises. This investigative hold must be
3.23 confirmed in writing by the originating agency within 72 hours and will remain in effect
3.24 for 30 days from the date of initial notification, until the investigative hold is canceled
3.25 or renewed, or until a law enforcement notification to confiscate or directive to release
3.26 is issued, whichever comes first.

3.27 (b) If a wireless communications device is identified as stolen or as evidence in a
3.28 criminal case, a law enforcement official may:

3.29 (1) physically confiscate and remove the wireless communications device from the
3.30 person, pursuant to a written notification;

3.31 (2) place the wireless communications device on hold or extend the hold under
3.32 paragraph (a), and leave the device at the premises; or

3.33 (3) direct its release to a registered owner or owner's agent.

3.34 (c) When an item is confiscated, the law enforcement agency doing so shall provide
3.35 identification upon request of the person, and shall provide the name and telephone number
3.36 of the confiscating agency and investigator, and the case number related to the confiscation.

4.1 (d) A person may request seized property be returned in accordance with section
4.2 626.04.

4.3 (e) When an investigative hold or notification to confiscate is no longer necessary,
4.4 the law enforcement official or designee shall notify the person.

4.5 (f) A person may sell or otherwise dispose of the wireless communications device if:

4.6 (1) a notification to confiscate is not issued during the investigative hold; or

4.7 (2) a law enforcement official does not physically remove the wireless
4.8 communications device from the premises within 15 calendar days from issuance of a
4.9 notification to confiscate.

4.10 (g) If a person is required to hold the wireless communications device at the
4.11 direction of law enforcement for purposes of investigation or prosecution, or if the device
4.12 is seized by law enforcement, the person and any other victim is entitled to seek restitution,
4.13 including any out-of-pocket expenses for storage and lost profit, in any criminal case
4.14 that may arise from the investigation against the individual who delivered the wireless
4.15 communications device to the person.

4.16 Subd. 6. **Video security cameras required.** (a) Each person shall install and
4.17 maintain at each location video surveillance cameras, still digital cameras, or similar
4.18 devices positioned to record or photograph a frontal view showing a readily identifiable
4.19 image of the face of each seller of a wireless communications device who enters the
4.20 location. The person shall also photograph the seller's vehicle, including license plate,
4.21 either by video camera or still digital camera, so that an accurate and complete description
4.22 of the vehicle may be obtained from the recordings made by the cameras. Photographs
4.23 and recordings must be clearly and accurately associated with their respective records.

4.24 (b) The video camera or still digital camera must be kept in operating condition and
4.25 must be shown upon request to a properly identified law enforcement officer for inspection.
4.26 The camera must record and display the accurate date and time. The video camera or still
4.27 digital camera must be turned on at all times when the location is open for business and at
4.28 any other time when wireless communications devices are purchased or sold.

4.29 (c) Recordings and images required by paragraph (a) shall be retained by the person
4.30 for a minimum period of 60 days and shall at all reasonable times be open to the inspection
4.31 of any properly identified law enforcement officer.

4.32 (d) If the person does not purchase wireless communications devices at a specific
4.33 business location, the person need not comply with this subdivision with respect to those
4.34 purchases.

4.35 Subd. 7. **Criminal penalty.** A person, or the agent, employee, or representative of
4.36 the person, who intentionally violates a provision of this section is guilty of a misdemeanor.