

CHAPTER 325E

REGULATION OF TRADE PRACTICES

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325E.311 DEFINITIONS.

[For text of subs 1 to 5, see M.S.2004]

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

(1) to any residential subscriber with that subscriber's prior express invitation or permission; or

(2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

(i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law;

(ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or

(iii) by a political party as defined under section 200.02, subdivision 6.

History: 1Sp2005 c 1 art 4 s 92

WIRELESS DIRECTORIES

325E.317 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 325E.317 and 325E.318, the terms defined in this section have the meanings given.

Subd. 2. **Provider.** "Provider" means a provider of wireless telecommunications services.

Subd. 3. **Telecommunications services.** "Telecommunications services" has the meaning given in section 297A.61, subdivision 24, paragraph (a).

Subd. 4. **Wireless directory assistance service.** "Wireless directory assistance service" means any service for connecting calling parties to a wireless telecommunications services customer when the calling parties themselves do not possess the customer's wireless telephone number information.

Subd. 5. **Wireless telecommunications services.** "Wireless telecommunications services" has the meaning given in section 325F.695.

Subd. 6. **Wireless telephone directory.** "Wireless telephone directory" means a directory or database containing wireless telephone number information or any other identifying information by which a calling party may reach a wireless telecommunications services customer.

Subd. 7. **Wireless telephone number information.** "Wireless telephone number information" means the telephone number, electronic address, and any other identifying information by which a calling party may reach a wireless telecommunications services customer, which is assigned by a provider to the customer and includes the customer's name and address.

History: 2005 c 163 s 83

325E.318 WIRELESS DIRECTORIES.

Subdivision 1. **Notice.** No provider of wireless telecommunications service, or any direct or indirect affiliate or agent of a provider, may include the wireless telephone number information of a customer in a wireless telephone directory assistance service database or publish, sell, or otherwise disseminate the contents of a wireless telephone directory assistance service database unless the provider provides a conspicuous notice to the subscriber informing the subscriber that the subscriber will not be listed in a wireless directory assistance service database without the subscriber's prior express authorization.

Subd. 2. **Authorization.** (a) A provider, or any direct or indirect affiliate or agent of a provider, may not disclose, provide, or sell a customer's wireless telephone number information, or any part thereof, for inclusion in a wireless telephone directory of any form, and may not sell a wireless telephone directory containing a customer's wireless telephone number information without first receiving prior express authorization from the customer. The customer's authorization must meet the following requirements:

(1) consent shall be affirmatively obtained separately from the execution of the service contract via verifiable means; and

(2) consent shall be unambiguous and conspicuously disclose that the subscriber is consenting to have the customer's dialing number sold or licensed as part of a publicly available directory assistance database.

(b) A record of the authorization shall be maintained for the duration of the service contract or any extension of the contract.

(c) A subscriber who provides express consent pursuant to paragraph (a) may revoke that consent via verifiable means at any time. A provider must comply with the customer's request to be removed from the directory and remove such listing from directory assistance within 60 days.

Subd. 3. **No fee to retain privacy.** A customer shall not be charged for opting not to be listed in a wireless telephone directory.

Subd. 4. **Remedies.** Every knowing violation of this section is punishable by a fine of up to \$500 for each violation with a maximum aggregated amount of \$10,000 for a provider, of which \$100 per violation shall be paid to each victim of the violation. The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general shall notify the company with a letter of warning that the section has been violated. No telephone corporation, nor any official or employee of a telephone corporation, shall be subject to criminal or civil liability for the release of customer information as authorized by this section.

History: 2005 c 163 s 84

USE OF SOCIAL SECURITY NUMBERS

325E.59 USE OF SOCIAL SECURITY NUMBERS.

Subdivision 1. **Generally.** A person or entity, not including a government entity, may not do any of the following:

(1) publicly post or publicly display in any manner an individual's Social Security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(2) print an individual's Social Security number on any card required for the individual to access products or services provided by the person or entity;

(3) require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted;

(4) require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site; or

(5) print a number that the person or entity knows to be an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed. If, in connection with a transaction involving or otherwise relating to an individual, a person or entity receives a number from a third party, that person or entity is under no duty to inquire or otherwise determine whether the number is or includes that individual's Social Security number and may print that number on materials mailed to the individual, unless the person or entity receiving the number has actual knowledge that the number is or includes the individual's Social Security number.

Notwithstanding clauses (1) to (5), Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number. Nothing in this paragraph authorizes inclusion of a Social Security number on the outside of a mailing.

Except as provided in subdivision 2, this section applies only to the use of Social Security numbers on or after July 1, 2007.

Subd. 2. Continuation of prior use. A person or entity, not including a government entity, that has used, prior to July 1, 2007, an individual's Social Security number in a manner inconsistent with subdivision 1, may continue using that individual's Social Security number in that manner on or after July 1, 2007, if all the following conditions are met:

(1) the use of the Social Security number is continuous. If the use is stopped for any reason, subdivision 1 applies;

(2) the individual is provided an annual disclosure, commencing in 2007, that informs the individual that the individual has the right to stop the use of the individual's Social Security number in a manner prohibited by subdivision 1;

(3) a written request by an individual to stop the use of the individual's Social Security number in a manner prohibited by subdivision 1 must be implemented within 30 days of the receipt of the request. A fee may not be charged for implementing the request; and

(4) a person or entity, not including a government entity, shall not deny services to an individual because the individual makes a written request pursuant to this subdivision.

Subd. 3. Coordination with other law. This section does not prevent the collection, use, or release of a Social Security number as required by state or federal law or the use of a Social Security number for internal verification or administrative purposes.

Subd. 4. Public records. This section does not apply to documents that are recorded or required to be open to the public under chapter 13 or by other law.

Subd. 5. Definitions. For purposes of this section, "government entity" has the meaning given in section 13.02, subdivision 7a, but does not include the Minnesota state colleges and universities or the University of Minnesota.

History: 2005 c 163 s 85

NOTE: This section, as added by Laws 2005, chapter 163, section 85, is effective July 1, 2007. Laws 2005, chapter 163, section 85, the effective date.

DATA WAREHOUSES; DISCLOSURE OF PERSONAL INFORMATION**325E.61 DATA WAREHOUSES; NOTICE REQUIRED FOR CERTAIN DISCLOSURES.**

Subdivision 1. **Disclosure of personal information; notice required.** (a) Any person or business that conducts business in this state, and that owns or licenses data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in paragraph (c), or with any measures necessary to determine the scope of the breach, identify the individuals affected, and restore the reasonable integrity of the data system.

(b) Any person or business that maintains 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 immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed to a date certain if a law enforcement agency affirmatively determines that the notification will impede a criminal investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. 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 system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "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 is not encrypted:

- (1) Social Security number;
- (2) driver's license number or Minnesota identification card number; or
- (3) 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.

(f) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

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

- (1) written notice to the most recent available address the person or business has in its records;
- (2) electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures in United States Code, title 15, section 7001; or
- (3) substitute notice, if the person or business demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice must consist of all of the following:

(i) e-mail notice when the person or business has an e-mail address for the subject persons;

(ii) conspicuous posting of the notice on the Web site page of the person or business, if the person or business maintains one; and

(iii) notification to major statewide media.

(h) Notwithstanding paragraph (g), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section, shall be deemed 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 system.

Subd. 2. Coordination with consumer reporting agencies. If a person discovers circumstances requiring notification under this section of more than 500 persons at one time, the person shall also notify, within 48 hours, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by United States Code, title 15, section 1681a, of the timing, distribution, and content of the notices.

Subd. 3. Waiver prohibited. Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

Subd. 4. Exemption. This section does not apply to any "financial institution" as defined by United States Code, title 15, section 6809(3), and to entities subject to the federal privacy and security regulations adopted under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

Subd. 5. Security assessments. Each government entity shall conduct a comprehensive security assessment of any personal information maintained by the government entity.

Subd. 6. Remedies and enforcement. The attorney general shall enforce this section under section 8.31.

History: 2005 c 167 s 1