



2001 SENATE BILL 181

May 16, 2001 - Introduced by Senators ERPENBACH, ROBSON and DARLING, cosponsored by Representatives SCHNEIDER, SINICKI, SUDER, RYBA, MUSSER, J. LEHMAN, OTT, COGGS, GRONEMUS, ALBERS and BOYLE. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT to amend** 895.85 (2); and **to create** 895.503 of the statutes; **relating to:**
2 an individual's ownership of his or her personal identifiers and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person is guilty of a Class D felony if the person intentionally uses or attempts to use the personal identification information of an individual, without the individual's consent, to obtain credit, money, goods, or anything else of value. In current law, personal identification information includes the individual's name, address, telephone number, or social security number. This bill expands the list of personal identification information listed in current law to include the individual's post-office box number, nine-digit extended zip code, and electronic mail address.

The bill also prohibits a person from selling, renting, or trading a personal identifier of an individual if all of the following apply:

1. The person who sells, rents, or trades the personal identifier knows that the recipient of the sale, rental, or trade intends to use the personal identifier for marketing purposes.

2. The individual that the personal identifier identifies has not given written permission for the sale, rental, or trade.

The bill prohibits a person from buying or obtaining by rental or trade an individual's personal identifier for marketing purposes unless the person receives written assurance that the person providing the personal identifier has written

SENATE BILL 181

permission for the sale, rental, or trade from the individual identified by the personal identifier.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.503 of the statutes is created to read:

2 **895.503 Ownership of personal identifiers. (1) DEFINITION.** In this section,
3 “personal identifier” means all of the information listed in s. 943.201 (1) (b) 1. to 9.,
4 and the individual’s post-office box number, 9-digit extended zip code, or electronic
5 mail address.

6 **(2) SALE PROHIBITED.** No person may sell, rent, or trade a personal identifier
7 of an individual if the person knows that the recipient of the personal identifier
8 intends to use the personal identifier for marketing purposes unless the individual
9 has given written permission for the sale, rental, or trade. This subsection does not
10 apply to release of records under ss. 19.31 to 19.39.

11 **(3) PURCHASE PROHIBITED.** No person may purchase a personal identifier of an
12 individual or obtain the personal identifier as part of a rental or trade if the person
13 intends to use the personal identifier for marketing purposes unless the person
14 receives a written assurance from the person providing the information that the
15 individual has given written permission for the sale, rental, or trade.

16 **(4) PAYMENT TO INDIVIDUAL PERMITTED.** Nothing in this section prohibits the
17 payment of anything of value to an individual to obtain his or her permission to sell,
18 rent, or trade the individual’s personal identifier for marketing purposes.

SENATE BILL 181

1 **(5) PENALTIES AND PRIVATE CAUSE OF ACTION.** (a) A person who violates sub. (2)
2 or (3) is subject to a forfeiture of not more than \$500 for each individual for whom a
3 personal identifier was transferred in violation of sub. (2) or (3).

4 (b) An individual for whom a personal identifier has been transferred in
5 violation of sub. (2) or (3) may bring an action to recover actual damages, exemplary
6 damages of \$500, costs, and reasonable attorney fees.

7 **SECTION 2.** 895.85 (2) of the statutes is amended to read:

8 895.85 **(2) SCOPE.** This section does not apply to awards of double damages or
9 treble damages, or to the award of exemplary damages under ss. 46.90 (6) (c), 51.30
10 (9), 51.61 (7), 103.96 (2), 134.93 (5), 146.84 (1) (b) and (bm), 153.85, 252.14 (4), 252.15
11 (8) (a), 610.70 (7) (b), 895.503, 943.245 (2) and (3), and 943.51 (2) and (3).

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(END)