

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 207**

March 14, 2000 – Offered by COMMITTEE ON PRIVACY, ELECTRONIC COMMERCE AND
FINANCIAL INSTITUTIONS.

1 **AN ACT** *to amend* 134.95 (2); and *to create* 134.44 of the statutes; **relating to:**
2 the transfer for consideration of personally identifiable information obtained
3 by businesses in operating programs that offer customers discounts on
4 purchases or other benefits and providing a penalty.

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

5 **SECTION 1.** 134.44 of the statutes is created to read:

6 **134.44 Transfers of personally identifiable information. (1)**

7 DEFINITIONS. In this section:

8 (a) “Application form” means a form that a customer must complete in order
9 to participate in a program that is operated by a business for profit to offer customer
10 discounts.

11 (b) “Personally identifiable information” means the name of an individual or
12 other information that can be used to identify that individual.

1 (c) “Predecessor business” means a business for profit that sells or otherwise
2 transfers ownership of the business to another business for profit.

3 (d) “Successor business” means a business for profit that purchases or
4 otherwise acquires ownership of another business for profit.

5 (e) “Transfer” means to sell, rent, trade or otherwise transfer for consideration.

6 **(2) REQUIREMENTS FOR TRANSFERS.** (a) No person who is engaged in or employed
7 by a business for profit, and who requests personally identifiable information from
8 a customer on an application form, may transfer the personally identifiable
9 information to any other person unless the application form contains a written
10 disclosure that states all of the following:

11 1. The types of personally identifiable information that may be transferred.

12 2. The types of 3rd parties to whom the personally identifiable information may
13 be transferred.

14 3. The purposes for which the personally identifiable information may be
15 transferred.

16 (b) The written disclosure under par. (a) shall be printed in capital and
17 lowercase letters of not less than 12–point boldface type.

18 **(3) RETRANSFER OF INFORMATION.** (a) No recipient to whom personally
19 identifiable information from an application form is transferred may transfer the
20 personally identifiable information to another person if the recipient knows or
21 reasonably should know that the person who transferred the information failed to
22 comply with sub. (2).

23 (b) Paragraph (a) does not apply to a successor business that receives
24 personally identifiable information from a predecessor business.

1 (c) Notwithstanding par. (b), if a successor business may release personally
2 identifiable information of a different type, to different types of 3rd parties or for
3 different purposes than those specified on the predecessor business' application
4 forms under par. (a), the successor business must advise those of the predecessor
5 business' customers about whom it received personally identifiable information of
6 the nature of those differences and provide the customers with a means by which the
7 customers may request that the customers' personally identifiable information not
8 be released to any 3rd party. If a customer makes such a request, the successor
9 business may not release the customer's personally identifiable information to any
10 3rd party.

11 **(4)** Any person who violates sub. (2) or (3) is subject to a forfeiture of not more
12 than \$100 for each violation. For purposes of counting violations under this
13 subsection, the violations by a person under sub. (2) or (3) as they relate to each
14 customer constitute a separate violation.

15 **SECTION 2.** 134.95 (2) of the statutes is amended to read:

16 134.95 **(2)** SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a
17 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.44,
18 134.71, 134.72 or 134.87 or ch. 136 or a rule promulgated under these sections or that
19 chapter, the person shall be subject to a supplemental forfeiture not to exceed
20 \$10,000 for that violation if the conduct by the defendant, for which the fine or
21 forfeiture was imposed, was perpetrated against an elderly person or disabled person
22 and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

23 **SECTION 3. Effective date.**

