

§ 20-117. Licensee disclosure of security breach; notification requirements.

a. Definitions. For the purposes of this section,

1. The term "personal identifying information" shall mean any person's date of birth, social security number, driver's license number, non-driver photo identification card number, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person. This term shall apply to all such data, notwithstanding the method by which such information is maintained.

2. The term "breach of security" shall mean unauthorized possession of personal identifying information that compromises the security, confidentiality or integrity of such information. Good faith or inadvertent possession of any personal identifying information by an employee or agent of the licensee for the legitimate purposes of the business of the licensee shall not constitute a breach of security.

b. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that owns or leases data that includes personal identifying information and any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that maintains but does not own data that includes personal identifying information shall immediately disclose to the department and to the police department any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach if such personal identifying information is reasonably believed to have been acquired by an unauthorized person.

c. Subsequent to compliance with the provisions set forth in subdivision b of this section, any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that owns or leases data that includes personal identifying information shall disclose, in accordance with the procedures set forth in subdivision e of this section, any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to any person whose personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person.

d. Subsequent to compliance with the provisions set forth in subdivision b of this section, any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that maintains but does not own data that includes personal identifying information shall disclose, in accordance with the procedures set forth in subdivision e of this section, any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to the owner, lessor or licensor of the data if the personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person.

e. The disclosures required by subdivisions c and d of this section shall be made as soon as practicable by a method reasonable under the circumstances. Provided said method is not inconsistent with the legitimate needs of law enforcement or any other investigative or protective measures necessary to restore the reasonable integrity of the

data system, disclosure shall be made by at least one of the following means:

1. Written notice to the individual at his or her last known address;
or
2. Verbal notification to the individual by telephonic communication;
or
3. Electronic notification to the individual at his or her last known e-mail address.

f. Should disclosure pursuant to paragraphs one, two or three of subdivision e be impracticable or inappropriate given the circumstances of the breach and the identity of the victim, such disclosure shall be made by a mechanism of the licensee's choosing, provided such mechanism is reasonably targeted to the individual in a manner that does not further compromise the integrity of the personal information disclosed and has been approved, or is in compliance with rules promulgated, by the Commissioner.

g. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that discards any records of an individual's personal identifying information shall do so in a manner intended to prevent retrieval of the information contained therein or thereon.

h. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, who shall violate any of the provisions of this section, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500) and shall be liable for a civil penalty of one hundred dollars (\$100) for each violation.