

## PERSONAL INFORMATION PRIVACY ACT

§ 59.1-442. Sale of purchaser information; notice required.

No merchant, without giving notice to the purchaser, shall sell to any third person information which concerns the purchaser and which is gathered in connection with the sale, rental or exchange of tangible personal property to the purchaser at the merchant's place of business. Notice required by this section may be by the posting of a sign or any other reasonable method. If requested by a purchaser not to sell such information, the merchant shall not do so. No merchant shall sell any information gathered solely as the result of any customer payment by personal check, credit card, or where the merchant records the customer's driver's license number.

For the purposes of this section "merchant" means any person or entity engaged in the sale of goods from a fixed retail location in Virginia.

§ 59.1-443. Exceptions.

Section 59.1-442 shall not apply to: (i) information gathered for purposes of extending credit or the recording and sale, rental, exchange or disclosure to others of information obtained from any public body as defined in the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (ii) the sale of information concerning a check or credit card transaction when it is incidental to the sale or other disposition of accounts receivable; (iii) the furnishing by a merchant of information on check writing activity of its customers in conjunction with check validation transactions; or (iv) information sold in connection with any sale by a business of the business's retail operations at one or more locations, provided that the information is sold only to the purchasers thereof.

§ 59.1-443.1. Recording date of birth as condition of accepting checks prohibited.

A. As used in this section:

"Check" shall have the same meaning as defined in § 8.3A-104.

B. Except as provided in subsection C, no person who accepts checks for the transaction of business shall, as a condition of accepting the check, record, or request or require a person to record, his or her date of birth upon the check or otherwise.

C. This section does not require a person to accept checks for the transaction of business. Nothing in this section shall apply to (i) the collection or use of a date of birth that is unrelated to accepting payment by check or (ii) a requirement that the person paying by check provide the year of his birth.

§ 59.1-443.2. Restricted use of social security numbers.

A. Except as otherwise specifically provided by law, a person shall not:

1. Intentionally communicate an individual's social security number to the general public;

2. Print an individual's social security number on any card required for the individual to access or receive products or services provided by the person;

3. Require an individual to use his social security number to access an Internet website, unless a password, unique personal identification number or other authentication device is also required to access the site; or

4. Send or cause to be sent or delivered any letter, envelope, or package that displays a social security number on the face of the mailing envelope or package, or from which a social security number is visible, whether on the outside or inside of the mailing envelope or package.

B. This section does not prohibit the collection, use, or release of a social security number as permitted by the laws of the Commonwealth or the United States, or the use of a social security number for internal verification or administrative purposes unless such use is prohibited by a state or federal statute, rule, or regulation.

C. In the case of any (i) health care provider as defined in § 8.01-581.1, (ii) manager of a pharmacy benefit plan, (iii) insurer as defined in § 38.2-100, (iv) corporation providing a health services plan, (v) health maintenance organization providing a health care plan for health care services, or (vi) contractor of any such person, the prohibition contained in subdivision 2 of subsection A shall become effective on January 1, 2006.

D. This section shall not apply to (i) public bodies as defined in § 2.2-3701 or (ii) records required by law to be open to the public, and shall not be construed to limit access to records pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

E. No person shall embed an encrypted or unencrypted social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number as required by this section.

§ 59.1-444. Damages.

A person aggrieved by a violation of any provision of this chapter, except § 59.1-443.2, shall be entitled to institute an action to recover damages in the amount of \$100 per violation. In addition, if the aggrieved party prevails, he may be awarded reasonable attorney's fees and court costs. Actions under this section shall be brought in the general district court for the city or county in which the transaction or other violation that gave rise to the action occurred. A violation of the provisions of § 59.1-443.2 is a prohibited practice under the Virginia Consumer Protection Act (§ 59.1-196 et seq.).