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BUSINESS & EMPLOYMENT LAW NEWSLETTER

BUSINESS ALERT !

A new law going into effect this summer provides that if you employ even one person, and you have any of their personal information, you have to “destroy” the information before you throw it away - you have to shred it or burn it or pulverize it. Or you could get sued and/or fined.

The Fair and Accurate Credit Transactions Act (FACTA) – (the same law that also says you get one free look at your credit report each year) can be found at <http://www.fair-credit-laws.com/links.html>.

THE FASTEST - GROWING CRIME

Identity theft is the fastest-growing crime in the United States, according to the National Crime Prevention Council. Each victim will spend an average of \$1,495 and 600 hours getting his or her finances straightened out, and that’s not counting attorneys’ fees.

The Fair and Accurate Credit Transactions Act was passed in December 2003, but rules were just recently written on the disposal provision. The law requires the destruction – “shredding or burning” or “smashing or wiping”- of all paper or computer disks containing personal information “derived from a consumer report” before it is discarded.

The disposal provision goes into effect June 1, 2005. By then, all businesses – whether employing one worker or 1 million – will have to join the shredding game.

FACTA is just one of several recent laws aimed at protecting consumer and company privacy, including medical records, credit information and corporate trade secrets.

Several states, including Georgia and Wisconsin, already mandate the disposal of records containing personal information. But the federal laws on protection of consumer information have some teeth in them.

If you do not shred - and information gets out - there are penalties:

- **Civil liability.** An employee could be entitled to recover actual damages sustained if his or her identity is stolen as a result of your inaction. Or you could have to pay statutory damages of up to \$1,000 per employee.
- **Class-action lawsuit.** If large numbers of employees are affected, they may be able to bring class-action suits and get punitive damages.

- **Federal fines.** The federal government could fine you up to \$2,500 for each violation.
- **State fines.** States can fine up to \$1,000 for each violation.

ANOTHER OPTION: INSURANCE

Some homeowner insurance companies are now offering Identity Fraud Coverage that covers the lost income, notary costs, certified mail costs, loan re-application fees, long distance charges and attorneys' fees relating to the identity fraud. Employees should be encouraged to obtain this coverage.

TIPS FOR ID FRAUD PREVENTION

- ***Do not*** send outgoing mail from the mailbox in front of your home. Use a U.S. mailbox or receptacle inside the post office instead.
- ***Do not*** give out your Social Security number, credit card numbers, or personal information over the phone, by mail, or over the Internet.
- ***Do not*** allow your Social Security number or phone number to be pre-printed on your checks. Put your work phone # on your checks instead of your home phone. If you have a PO Box, use that instead of your home address. The next time you order checks have only your initials (instead of first name) and last name put on them. If someone takes your checkbook they will not know if you sign your checks with just your initials or your first name but your bank will know how you sign your checks.
- ***Do not*** carry your Social Security card in your wallet.
- ***Do not*** put your complete credit card account number on the "For" line when you are writing checks to pay on your credit card accounts. Instead, just put the last four numbers. The credit card company knows the rest of the number and anyone who might be handling your check as it passes through all the check processing channels won't have access to it.
- ***Do*** review your bills and account statements carefully. Report questionable charges or inaccuracies immediately.
- ***Do*** copy the contents of your wallet, both sides, of each license, credit card, etc. You will know what you had in your wallet and all of the account numbers and phone numbers to call and cancel. Keep the photocopy in a safe place. Carry a photocopy of your passport when traveling abroad.
- ***Do*** password protect your computer files that contain personal or financial data.
- ***Do*** use a cross-cut shredder to dispose of paperwork containing personal information.
- ***Do*** order a copy of your credit report from each of the three credit reporting agencies at least once a year. Check it for accuracy and request corrections promptly.

CREDIT REPORTING AGENCIES:

Equifax: 800-685-1111
www.equifax.com

Experian: 800-397-3742
www.experian.com

TransUnion: 800-888-4213
www.transunion.com

IF YOU BECOME A VICTIM:

- Report the crime to the police.
- Notify all creditors of the theft.
- Contact the Federal Trade Commission (FTC), which is the federal clearinghouse for complaints by victims of identity fraud.
- If you have purchased identity fraud insurance coverage, notify your insurance carrier of the loss.
- Notify the fraud units of the credit reporting agencies and the Social Security Administration.

FRAUD REPORTING INFORMATION:

Equifax: 800-525-6285

Experian: 888-397-3742; choose Option 5

TransUnion: 800-680-7289

Social Security Administration:
800-269-0271

Federal Trade Commission:
www.consumer.gov/idtheft/

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