

West's Annotated Indiana Code
Title 24. Trade Regulation
Article 4.9. Disclosure of Security Breach
Chapter 3. Disclosure and Notification Requirements

IC 24-4.9-3-3.5

24-4.9-3-3.5 Exceptions; reasonable procedures to protect personal information

Effective: July 1, 2017

[Currentness](#)

Sec. 3.5. (a) Except as provided in subsection (b), this section does not apply to a data base owner that maintains its own data security procedures as part of an information privacy, security policy, or compliance plan under:

- (1) the federal USA PATRIOT Act ([P.L. 107-56](#));
- (2) [Executive Order 13224](#);
- (3) the federal Driver's Privacy Protection Act ([18 U.S.C. 2721 et seq.](#));
- (4) the federal Fair Credit Reporting Act ([15 U.S.C. 1681 et seq.](#));
- (5) the federal Financial Modernization Act of 1999 ([15 U.S.C. 6801 et seq.](#)); or
- (6) the federal Health Insurance Portability and Accountability Act (HIPAA) ([P.L. 104-191](#));

if the data base owner's information privacy, security policy, or compliance plan requires the data base owner to maintain reasonable procedures to protect and safeguard from unlawful use or disclosure personal information of Indiana residents that is collected or maintained by the data base owner and the data base owner complies with the data base owner's information privacy, security policy, or compliance plan.

(b) This section applies to a current or former health care provider (as defined by [IC 4-6-14-2](#)) who is a data base owner or former data base owner:

- (1) to which an exemption under subsection (a)(6) applies or applied; and
- (2) whose information privacy, security policy, or compliance plan:

(A) does not require the data base owner or former data base owner to maintain and implement reasonable procedures; or

(B) is not implemented by the data base owner or former data base owner;

to ensure that the personal information described in subsection (a), including health records (as defined by [IC 4-6-14-2.5](#)), is protected and safeguarded from unlawful use or disclosure after the data base owner or former data base owner ceases to be a covered entity under the federal Health Insurance Portability and Accountability Act ([P.L. 104-191](#)).

(c) A data base owner shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard from unlawful use or disclosure any personal information of Indiana residents collected or maintained by the data base owner.

(d) A data base owner shall not dispose of or abandon records or documents containing unencrypted and unredacted personal information of Indiana residents without shredding, incinerating, mutilating, erasing, or otherwise rendering the personal information illegible or unusable.

(e) A person that knowingly or intentionally fails to comply with any provision of this section commits a deceptive act that is actionable only by the attorney general under this section.

(f) The attorney general may bring an action under this section to obtain any or all of the following:

(1) An injunction to enjoin further violations of this section.

(2) A civil penalty of not more than five thousand dollars (\$5,000) per deceptive act.

(3) The attorney general's reasonable costs in:

(A) the investigation of the deceptive act; and

(B) maintaining the action.

(g) A failure to comply with subsection (c) or (d) in connection with related acts or omissions constitutes one (1) deceptive act.

Credits

As added by [P.L.137-2009, SEC.5](#). Amended by [P.L.76-2017, SEC.4](#), eff. July 1, 2017.

I.C. 24-4.9-3-3.5, IN ST 24-4.9-3-3.5

The statutes and Constitution are current with all legislation of the 2018 Second Regular Session and First Special Session of the 120th General Assembly.

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