

SENATE BILL No. 424

By Committee on Judiciary

2-9

1 AN ACT concerning consumer protection; relating to identity theft and
2 identity fraud; security of personal identifying information; powers and
3 duties of the attorney general; amending K.S.A. 2015 Supp. 50-6,139
4 and repealing the existing section; also repealing K.S.A. 2015 Supp.
5 50-7a03.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) Within the limits of available resources, the
9 attorney general may assist victims of identity theft, identity fraud and
10 related crimes and violations in obtaining refunds in relation to fraudulent
11 or unauthorized charges or debits, canceling fraudulent accounts,
12 correcting false information in consumer reports caused by identity theft or
13 identity fraud, correcting false information in personnel files and court
14 records, obtaining security freezes, completing identity theft affidavits,
15 filing complaints and related matters.

16 (b) This section shall be part of and supplemental to the Kansas
17 consumer protection act.

18 New Sec. 2. (a) As used in this section:

19 (1) "Holder of personal identifying information" means a person who,
20 in the ordinary course of business, collects, maintains or possesses, or
21 causes to be collected, maintained or possessed, the personal identifying
22 information of any person.

23 (2) "Person" means any individual, partnership, corporation, trust,
24 estate, cooperative, association, government, governmental subdivision or
25 agency or other entity.

26 (3) "Personal identifying information" has the meaning provided by
27 K.S.A. 2015 Supp. 21-6107, and amendments thereto.

28 (4) "Record" has the meaning provided by K.S.A. 84-1-201, and
29 amendments thereto.

30 (b) A holder of personal identifying information shall:

31 (1) Implement and maintain reasonable procedures and practices
32 appropriate to the nature of the information, and exercise reasonable care
33 to protect the personal identifying information from unauthorized access,
34 destruction, use, modification or disclosure; and

35 (2) unless otherwise required by federal law or regulation, take
36 reasonable steps to destroy or arrange for the destruction of any records

1 within such holder's custody or control containing any person's personal
2 identifying information when such records are no longer to be retained.
3 Such destruction shall be by shredding, erasing or otherwise modifying the
4 personal identifying information in the records to make it unreadable or
5 undecipherable through any means.

6 (c) A violation of this section shall be an unconscionable act or
7 practice in violation of K.S.A. 50-627, and amendments thereto. Each
8 record that is subject to unauthorized access, destruction, use, modification
9 or disclosure in violation of this section shall constitute a separate
10 unconscionable act within the meaning of K.S.A. 50-627, and amendments
11 thereto.

12 (d) Notwithstanding any other provision of law to the contrary, the
13 exclusive authority to bring an action for any violation of this section shall
14 be with the attorney general.

15 (e) This section shall be part of and supplemental to the Kansas
16 consumer protection act.

17 Sec. 3. K.S.A. 2015 Supp. 50-6,139 is hereby amended to read as
18 follows: 50-6,139. (a) The conduct prohibited by K.S.A. 2015 Supp. 21-
19 6107, and amendments thereto, constitutes an unconscionable act or
20 practice in violation of K.S.A. 50-627, and amendments thereto, and any
21 person who engages in such conduct shall be subject to the remedies and
22 penalties provided by the Kansas consumer protection act.

23 (b) For the purposes of the remedies and penalties provided by the
24 Kansas consumer protection act:

25 (1) The person committing the conduct prohibited by K.S.A. 2015
26 Supp. 21-6107, and amendments thereto, shall be deemed the supplier, and
27 the person who is the victim of such conduct shall be deemed the
28 consumer; and

29 (2) proof of a consumer transaction shall not be required.

30 (c) This section shall be part of and supplemental to the Kansas
31 consumer protection act ~~and~~.

32 (d) *The provisions of this section and sections 1 and 2, and*
33 *amendments thereto, shall be known and may be cited as the Wayne Owen*
34 *law act.*

35 (e) *The attorney general may adopt rules and regulations as deemed*
36 *appropriate for the administration of the Wayne Owen act. Any violation*
37 *of rules and regulations adopted pursuant to such authority shall be*
38 *considered a violation of the Wayne Owen act.*

39 Sec. 4. K.S.A. 2015 Supp. 50-6,139 and 50-7a03 are hereby repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the statute book.