

DATA SECURITY & PRIVACY ALERT

DELAWARE GOVERNOR SIGNS BILL THAT AMENDS SECTION 6 OF THE DELAWARE CODE – TRADE AND COMMERCE

On July 1, 2014, the Governor of Delaware signed into law a bill that amends Section 6 of the Delaware Code – Trade and Commerce by placing certain obligations on commercial entities with respect to the destruction of records containing a consumer's personally identifiable information. The obligations are triggered by the commercial entity's decision that it no longer needs to retain the records. The law becomes effective on January 1, 2015.

Personal identifying information is defined as a consumer's first name or first initial and last name in combination with one of the following when either is not encrypted: social security number; passport number; driver's license or state identification card number; insurance policy number; financial services account number; bank account number; credit card number; debit card number; tax or payroll information or confidential health-care information.

The new law requires commercial entities to shred, erase, or to otherwise destroy or modify the records to make the personal information entirely unreadable or indecipherable through any means. Consumers actually harmed by violations of the law may file a civil action and seek treble damages. The Department of Justice may also institute administrative proceedings. Certain businesses are exempt if subject to regulation by other laws.

Given the broad definition of the commercial entities subject to this new law, it arguably could apply to all entities formed in Delaware whether or not they are doing business in Delaware, as well as entities formed in other jurisdictions that do business in Delaware.

*This **Data Security & Privacy Alert** is intended to keep readers current on developments in the data security & privacy world and in the law, and is not intended to be legal advice. If you have any questions, please call **Tara L. Lattomus** at (302) 574-7403, or **Sandy B. Garfinkel**, Chair of the firm's Data Security & Privacy Group, at 412-566-6868.*

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