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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3850**

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

1.1 A bill for an act
1.2 relating to crime; enhancing enforcement capability for identity theft and other
1.3 fraudulent activities conducted electronically; amending Minnesota Statutes
1.4 2008, sections 53B.18; 299L.01; proposing coding for new law in Minnesota
1.5 Statutes, chapter 299L.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2008, section 53B.18, is amended to read:

1.8 **53B.18 PROHIBITED PRACTICES.**

1.9 No licensee shall:

1.10 (1) fail to comply with chapter 345 as it relates to unclaimed property requirements;

1.11 (2) refuse to indemnify an instrument holder for any misappropriation of money

1.12 caused by any of its authorized delegates in conducting activities on behalf of the licensee

1.13 for whom it acts as an authorized delegate; ~~or~~

1.14 (3) fail to transmit all money received for wire transmission in accordance with the

1.15 purchaser's instructions within five days; or

1.16 (4) fail to comply with section 299L.11.

1.17 Sec. 2. Minnesota Statutes 2008, section 299L.01, is amended to read:

1.18 **299L.01 DIVISION OF ALCOHOL AND, GAMBLING, AND ELECTRONIC**
1.19 **FRAUD ENFORCEMENT.**

1.20 Subdivision 1. **Definitions.** (a) For the purposes of this chapter, the terms defined in
1.21 this subdivision have the meanings given them.

1.22 (b) "Division" means the Division of Alcohol ~~and~~, Gambling, and Electronic Fraud
1.23 Enforcement.

2.1 (c) "Commissioner" means the commissioner of public safety.

2.2 (d) "Director" means the director of alcohol ~~and~~, gambling, and electronic fraud
2.3 enforcement.

2.4 (e) "Manufacturer" means a person who assembles from raw materials or subparts a
2.5 gambling device for sale or use in Minnesota.

2.6 (f) "Distributor" means a person who sells, offers to sell, or otherwise provides a
2.7 gambling device to a person in Minnesota.

2.8 (g) "Used gambling device" means a gambling device five or more years old from
2.9 the date of manufacture.

2.10 (h) "Test" means the process of examining a gambling device to determine its
2.11 characteristics or compliance with the established requirements of any jurisdiction.

2.12 (i) "Testing facility" means a person in Minnesota who is engaged in the testing of
2.13 gambling devices for use in any jurisdiction.

2.14 Subd. 2. **Established; consolidation with liquor control.** Effective October 1,
2.15 1996, the duties and powers of the Division of Gambling Enforcement are transferred
2.16 to the Division of Alcohol ~~and~~, Gambling, and Electronic Fraud Enforcement in the
2.17 Department of Public Safety, under the control and supervision of a director appointed by
2.18 the commissioner and serving at the commissioner's pleasure in the unclassified service.
2.19 The director must be a person who is licensed or eligible to be licensed as a peace officer
2.20 under sections 626.84 to 626.863.

2.21 Subd. 3. **Employees.** The director shall employ in the Division of Alcohol
2.22 ~~and~~, Gambling, and Electronic Fraud Enforcement personnel, in the classified service,
2.23 necessary to carry out the duties under this chapter. The director shall request the Bureau
2.24 of Criminal Apprehension to perform background checks on persons who are finalists for
2.25 employment with the division but may employ personnel pending completion of the
2.26 background check.

2.27 Subd. 4. **Conflict of interest.** (a) The director and any person employed by the
2.28 division may not have a direct or indirect financial interest in:

2.29 (1) a class A or B licensee of the Racing Commission;

2.30 (2) a lottery retailer under contract with the State Lottery;

2.31 (3) a person who is under a lottery procurement contract with the State Lottery;

2.32 (4) a bingo hall, manufacturer, or distributor licensed under chapter 349; or

2.33 (5) a manufacturer or distributor licensed under this chapter.

2.34 (b) The director or an employee of the Division of Alcohol ~~and~~, Gambling, and
2.35 Electronic Fraud Enforcement may not participate in the conducting of lawful gambling
2.36 under chapter 349.

3.1 Sec. 3. [299L.10] ADMINISTRATIVE SUBPOENA TO OBTAIN
3.2 TELECOMMUNICATIONS ACCOUNT INFORMATION.

3.3 Subdivision 1. **Definition; telecommunication provider.** For purposes of this
3.4 section, "telecommunication provider" means an individual or entity that provides an
3.5 e-mail account, Internet access, Web hosting, cell phone service, or landline telephone
3.6 services to a Minnesota resident at a Minnesota location.

3.7 Subd. 2. **Administrative subpoena.** The director of the Division of Alcohol,
3.8 Gambling, and Electronic Fraud Enforcement may serve upon the Public Utilities
3.9 Commission or a telecommunications provider an administrative subpoena to obtain
3.10 account information with regard to an e-mail account, cell phone or other telephone
3.11 number, Internet access account, Web site, or other means of electronic communication, if
3.12 the director has determined that the account information may be helpful in an investigation
3.13 of suspected identity theft or other fraudulent activity conducted in whole or in part by
3.14 electronic means.

3.15 Subd. 3. **Response of recipient of administrative subpoena.** The recipient of an
3.16 administrative subpoena described in subdivision 2 shall respond with the requested
3.17 information no later than five business days after receipt of the subpoena. If the recipient
3.18 cannot comply with any aspect of the administrative subpoena, the recipient shall provide
3.19 a written explanation of the reason, including any necessary explanation of why the
3.20 recipient needs additional time to comply, stating the time by which the recipient expects
3.21 to be able to comply.

3.22 Subd. 4. **E-mail account information.** An entity that provides e-mail services to a
3.23 Minnesota resident must comply with an administrative subpoena that directs the entity
3.24 to provide to the director any or all customer account information, account activity logs,
3.25 and all content sent from or received by an e-mail account that may have been used in
3.26 an attempt to defraud a Minnesota resident. The entity served with the administrative
3.27 subpoena under this section must comply with subdivision 3.

3.28 Subd. 5. **Suspension or termination of account; liability for noncompliance.** (a)
3.29 An Internet service provider, Web-hosting company, money transmitter, or e-mail services
3.30 provider that provides any of those services to a Minnesota resident shall immediately
3.31 suspend or terminate an account upon notice to the provider by the director that a specified
3.32 account is being used for fraudulent activity.

3.33 (b) If the service provider does not comply with paragraph (a), the service provider
3.34 is liable to a victim for any financial loss subsequently incurred as a result of the provider's
3.35 failure to comply with this subdivision plus a civil penalty of up to that amount depending
3.36 upon the culpability of the service provider's failure to comply with this subdivision.

4.1 Subd. 6. **Blocking international calls; request of customer.** (a) A
 4.2 telecommunications service provider providing telecommunications services to a
 4.3 Minnesota resident shall, at the request of the customer, block international calls made
 4.4 from an area code or a telephone number tied to a physical location in a country other
 4.5 than the United States of America, including international calls that the telephone service
 4.6 provider can identify as international calls even though the calls arrive with a purported
 4.7 area code designation that makes the call appear to have originated within the United
 4.8 States of America or from a foreign country other than the country indicated by the caller's
 4.9 purported area code.

4.10 (b) A telecommunications service provider shall fully verify caller ID information
 4.11 related to a call and report the result within 24 hours of receipt of an administrative
 4.12 subpoena ordering the telecommunications service provider to do so.

4.13 Sec. 4. **[299L.11] MONEY TRANSMITTERS; COOPERATION REQUIRED**
 4.14 **IN COMBATTING FRAUD.**

4.15 Subdivision 1. **Definition; money transmitter.** For purposes of this section, "money
 4.16 transmitter," "entity that originates money transfers," or similar terms mean all entities
 4.17 licensed, or required to be licensed under chapter 53B, but also including entities exempt
 4.18 under section 53B.04, clause (4), from licensure under that chapter.

4.19 Subd. 2. **Antifraud program required.** Each money transmitter must establish
 4.20 and maintain an effective antifraud program that includes background investigations of
 4.21 authorized agents and their employees. The program must be approved and reviewed as
 4.22 appropriate by the director.

4.23 Subd. 3. **Designation of specific recipient required.** (a) A money transmitter doing
 4.24 business in this state must, for all money transfers in excess of \$100, excluding taxes
 4.25 and fees, designate the transaction as being sent to a specified individual for receipt at a
 4.26 specified location, as specified by the sender and not by the money transmitter.

4.27 (b) To collect the funds, the designated recipient must be required to (1) show
 4.28 a government-issued photo identification card which matches the name specified by
 4.29 the sender; and (2) be present at the location specified by the sender. If either of these
 4.30 requirements is not met, the money transmitter must suspend the transfer and notify the
 4.31 sender of the discrepancy. The transfer may then be completed only with the actual
 4.32 written consent of the sender.

4.33 Subd. 4. **Question required regarding possible fraud.** Any company originating
 4.34 a money transfer in this state must first ask the customer if the customer believes that
 4.35 initiation of the transfer is related to fraudulent activity. If the customer responds that the

5.1 customer believes that the transfer is related to fraudulent activity, the company must
5.2 suspend the transfer and promptly submit a Suspicious Activity Report to the director and
5.3 cooperate fully in any resulting investigation.

5.4 Subd. 5. **Reporting fraudulent transactions.** Any entity that originates money
5.5 transfers in this state that becomes aware of a fraudulent transaction that involves a money
5.6 transfer must immediately report the transaction to the director, including the amount of
5.7 the transfer, the person to whom it was sent, and the location to which it was sent, to the
5.8 extent that the information is known to the entity submitting the report.

5.9 Subd. 6. **Voluntary disqualification by customer.** A money transmitter that
5.10 originates money transfers in this state must allow an individual to voluntarily disqualify
5.11 the individual from sending or receiving money transfers. The disqualification lasts for
5.12 one year, unless the individual requests that it be in effect for an initial period longer than
5.13 one year. The individual may terminate the disqualification at any time upon written
5.14 notice to the money transmitter.

5.15 Subd. 7. **Enforcement.** The director may request the commissioner of commerce to
5.16 enforce this section under sections 45.027 and 53B.24. The director and the commissioner
5.17 of commerce may agree on a schedule of financial penalties for routine violations of
5.18 this section.

5.19 Subd. 8. **Surcharge; funding for enforcement.** (a) A money transmitter shall pay a
5.20 fraud protection fee in the amount of \$5 on each money transfer originated in this state
5.21 and submit the fees for each month no later than the tenth day of the following month to
5.22 the commissioner of public safety.

5.23 (b) The commissioner of public safety shall deposit the fees in an account in the
5.24 special revenue fund. The amount in the account is appropriated to the commissioner
5.25 of public safety for purposes of enforcement activities related to this section and to
5.26 fraudulent activities reported under it.