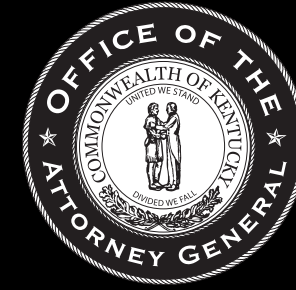


This KENTUCKY SMALL BUSINESS COMPLIANCE GUIDE TO CUSTOMER RECORDS DESTRUCTION was prepared by the Kentucky Office of the Attorney General, Office of Consumer Protection.



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KENTUCKY SMALL BUSINESS COMPLIANCE GUIDE TO CUSTOMER RECORDS DESTRUCTION



As of July 12, 2006, Kentucky businesses must follow new laws when destroying records that contain information about customers. This guide provides a summary of these new requirements.

These new laws will help protect Kentuckians from identity theft and help protect their privacy. Some identity thieves get key pieces of personally identifying information from trash bins or other discarded business records that have not been shredded or otherwise made unreadable, in order to commit frauds or crimes in another's name. Recent news stories have reported numerous instances where individuals have been put at risk of identity theft because records were not adequately protected. Proper destruction of records containing personal information will go far to protect individuals from identity theft.

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TO WHOM DOES THE NEW LAW APPLY?

Any "business", however organized, and whether operated for profit or non-profit. The new law does not apply to banks, credit unions, savings associations, or savings and loan associations.

WHAT IS REQUIRED?

When a business disposes of records (other than by storage) that have personal information about customers, it must take steps to make sure that the customer information is destroyed by **shredding, erasing, or using some other method that makes that information unreadable or indecipherable.**

This applies whether the business is disposing of the records itself or is using anyone else to destroy the records.

WHAT ARE CUSTOMER RECORDS?

The new law applies to "customer" records containing "personally identifiable information".

☞ A **customer** is an individual who gives personally identifiable information to a business in order to buy or lease a product or obtain a service.

☞ **Personally identifiable information** means data capable of being associated with a particular customer through one or more identifiers, including but not limited to a customer's name, address, telephone number, electronic mail address, fingerprints, photographs or computerized image, Social Security number, passport number, driver identification number, personal identification card number or code, date of birth, medical information, financial information, tax information, and disability information.

☞ **Records** can be anything on which information is kept in any form, whether written, verbal or electronic.

QUESTIONS ABOUT KENTUCKY'S CUSTOMER RECORDS DESTRUCTION LAW:

Does this apply to computer records?

Yes. The law applies to records whether they are "hard" copy (on paper) or electronic. So, when computer disks or hard drives are disposed of, the disks or drives must be destroyed or erased in a way that the customer information is not recoverable.

Could there be consequences for not complying?

Yes. A customer injured by a violation of the new records disposal law may sue in state court to recover damages and to stop the business from further violating the law. Consumer protection laws could also provide penalties.

If my records are stolen and a customer's identity stolen, could I be liable?

Yes. If the customer suffers damages because his or her identity is stolen from disposed records that a business failed to properly destroy, the new law allows the customer to sue the business in state court to recover the damages. There may also be other laws or regulations that could cause a business to be liable, depending on the type of business or any contractual agreements. Further information may be available from industry associations or by obtaining private legal advice.

If my records are stolen who should I call?

Contact local law enforcement to report any crimes, including theft of business records. After that, you should consider whether the theft has caused a breach of the security of the personal information in the stolen records and whether you have a duty (whether by contract or by other laws or regulations applicable to your business) to report the security breach to others. Resources for businesses are available from the FTC

<http://www.consumer.gov/idtheft>

and may also be available from industry associations.

What are the new laws and where are they found?

The new laws are *KRS 365.720 to 365.730*. They can be seen online at **<http://www.lrc.ky.gov/KRS/365-00/CHAPTER.HTM>**

The text of the bill passing these statutes is available online at **<http://www.lrc.ky.gov/record/06RS/HB54.htm>**

You can also request a copy of the bill from the Legislative Research Commission, Public Bill Room, Capitol, Frankfort, KY 40601, (502) 564-8100.

Could other laws apply to the disposal of records?

Yes. Depending on the type of business, other federal or state laws or regulations may also apply, such as HIPAA, insurance regulations, the Fair Credit Reporting Act, or the Gramm-Leach-Bliley Act. (See "**If my records are stolen...**" above for other resources.)