

# SENATE BILL NO. 652

November 13, 2019, Introduced by Senators THEIS, MCBROOM, MACDONALD and SANTANA and referred to the Committee on Insurance and Banking.

A bill to amend 2004 PA 452, entitled  
"Identity theft protection act,"  
by amending section 11 (MCL 445.71), as amended by 2010 PA 315.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11. (1) A person shall not do any of the following in the  
2           conduct of trade or commerce:

3           (a) Deny credit or public utility service to or reduce the  
4           credit limit of a consumer solely because the consumer was a victim  
5           of identity theft, if the person had prior knowledge that the

1 consumer was a victim of identity theft. A consumer is presumed to  
2 be a victim of identity theft for the purposes of this subdivision  
3 if he or she provides both of the following to the person:

4 (i) A copy of a police report evidencing the claim of the  
5 victim of identity theft.

6 (ii) Either a properly completed copy of a standardized  
7 affidavit of identity theft developed and made available by the  
8 ~~federal trade commission~~ **Federal Trade Commission** under 15 USC  
9 1681g or an affidavit of fact that is acceptable to the person for  
10 that purpose.

11 (b) Solicit to extend credit to a consumer who does not have  
12 an existing line of credit, or has not had or applied for a line of  
13 credit within the preceding year, through the use of an unsolicited  
14 check that includes personal identifying information **or personal**  
15 **information** other than the recipient's name, address, and a  
16 partial, encoded, or truncated personal identifying number. In  
17 addition to any other penalty or remedy under this act or the  
18 Michigan consumer protection act, 1976 PA 331, MCL 445.901 to  
19 445.922, a credit card issuer, financial institution, or other  
20 lender that violates this subdivision, and not the consumer, is  
21 liable for the amount of the instrument if the instrument is used  
22 by an unauthorized user and for any fees assessed to the consumer  
23 if the instrument is dishonored.

24 (c) Solicit to extend credit to a consumer who does not have a  
25 current credit card, or has not had or applied for a credit card  
26 within the preceding year, through the use of an unsolicited credit  
27 card sent to the consumer. In addition to any other penalty or  
28 remedy under this act or the Michigan consumer protection act, 1976  
29 PA 331, MCL 445.901 to 445.922, a credit card issuer, financial

1 institution, or other lender that violates this subdivision, and  
2 not the consumer, is liable for any charges if the credit card is  
3 used by an unauthorized user and for any interest or finance  
4 charges assessed to the consumer.

5 (d) Extend credit to a consumer without exercising reasonable  
6 procedures to verify the identity of that consumer. Compliance with  
7 regulations issued for depository institutions, and to be issued  
8 for other financial institutions, by the United States ~~department~~  
9 ~~of treasury~~ **Department of Treasury** under section 326 of the USA  
10 patriot act of 2001, 31 USC 5318, is considered compliance with  
11 this subdivision. This subdivision does not apply to a purchase of  
12 a credit obligation in an acquisition, merger, purchase of assets,  
13 or assumption of liabilities or any change to or review of an  
14 existing credit account.

15 (2) A person who knowingly or intentionally violates  
16 subsection (1) is guilty of a misdemeanor punishable as follows:

17 (a) Except as otherwise provided in subdivisions (b) and (c),  
18 by imprisonment for not more than 93 days or a fine of not more  
19 than \$1,000.00, or both.

20 (b) For a second violation, by imprisonment for not more than  
21 93 days or a fine of not more than \$2,000.00, or both.

22 (c) For a third or subsequent violation, by imprisonment for  
23 not more than 93 days or a fine of not more than \$3,000.00, or  
24 both.

25 (3) Subsection (2) does not prohibit a person from being  
26 liable for any civil remedy for a violation of this act, the  
27 Michigan consumer protection act, 1976 PA 331, MCL 445.901 to  
28 445.922, or any other state or federal law.

29 **(4) A person or a third-party agent of a person must comply**

1 with any applicable duties or obligations related to a suspected or  
2 confirmed security breach or notification of a security breach that  
3 is included in the terms of an agreement or contract governing the  
4 processing of credit card or debit card transactions, or the  
5 security of personal information, between the person or its third-  
6 party agent and a card sponsor, if the suspected or confirmed  
7 security breach involves the personal identifying information or  
8 personal information of 1 or more residents of this state.

9       Enacting section 1. This amendatory act takes effect 90 days  
10 after the date it is enacted into law.

11       Enacting section 2. This amendatory act does not take effect  
12 unless all of the following bills of the 100th Legislature are  
13 enacted into law:

14       (a) Senate Bill No. 653.

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16       (b) Senate Bill No. 654.

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18       (c) Senate Bill No. 655.

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