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2013 Legislature

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2 An act relating to personal identification theft;
3 creating s. 817.5685, F.S.; defining the term
4 "personal identification information"; providing that
5 it is unlawful for a person to intentionally or
6 knowingly possess, without authorization, any personal
7 identification information of another person;
8 providing criminal penalties; providing that
9 possession of identification information of multiple
10 individuals gives rise to an inference of illegality;
11 providing enhanced criminal penalties for possession
12 of such information of multiple persons; providing
13 exemptions; creating affirmative defenses; providing
14 that the act does not preclude the prosecution for the
15 unlawful possession of personal identification
16 information of another person under any other law;
17 providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 817.5685, Florida Statutes, is created
22 to read:

23 817.5685 Unlawful possession of the personal
24 identification information of another person.—

25 (1) As used in this section, the term "personal
26 identification information" means a person's social security
27 number, official state-issued or United States-issued driver
28 license or identification number, alien registration number,



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29 government passport number, employer or taxpayer identification
 30 number, Medicaid or food assistance account number, bank account
 31 number, credit or debit card number, and medical records.

32 (2) It is unlawful for a person to intentionally or
 33 knowingly possess, without authorization, the personal
 34 identification information of another person in any form,
 35 including, but not limited to, mail, physical documents,
 36 identification cards, or information stored in digital form.

37 (3) (a) A person who violates subsection (2) and in doing
 38 so possesses the personal identification information of four or
 39 fewer persons commits a misdemeanor of the first degree,
 40 punishable as provided in s. 775.082 or s. 775.083.

41 (b)1. Proof that a person used or was in possession of the
 42 personal identification information of five or more individuals,
 43 unless satisfactorily explained, gives rise to an inference that
 44 the person who used or was in possession of the personal
 45 identification information did so knowingly and intentionally
 46 without authorization.

47 2. A person who violates subsection (2) and in doing so
 48 possesses the personal identification information of five or
 49 more persons commits a felony of third degree, punishable as
 50 provided in s. 775.082, s. 775.083, or s. 775.084.

51 (4) Subsection (2) does not apply to:

52 (a) A person who is the parent or legal guardian of a
 53 child and who possesses the personal identification information
 54 of that child.

55 (b) A person who is the guardian of another person under
 56 chapter 744 and who is authorized to possess the personal



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57 identification information of that other person and make
58 decisions regarding access to that personal identification
59 information.

60 (c) An employee of a governmental agency who possesses the
61 personal identification information of another person in the
62 ordinary course of business.

63 (d) A person who is engaged in a lawful business and
64 possesses the personal identification information of another
65 person in the ordinary course of business.

66 (e) A person who finds a card or document issued by a
67 governmental agency that contains the personal identification
68 information of another person and who takes reasonably prompt
69 action to return that card or document to its owner, to the
70 governmental agency that issued the card or document, or to a
71 law enforcement agency.

72 (5) It is an affirmative defense to an alleged violation
73 of subsection (2) if the person who possesses the personal
74 identification information of another person:

75 (a) Did so under the reasonable belief that such
76 possession was authorized by law or by the consent of the other
77 person; or

78 (b) Obtained that personal identification information from
79 a forum or resource that is open or available to the general
80 public or from a public record.

81 (6) This section does not preclude prosecution for the
82 unlawful possession of personal identification information
83 pursuant to s. 817.568 or any other law.

84 Section 2. This act shall take effect October 1, 2013.