

SENATE BILL No. 1459

September 19, 2006, Introduced by Senators CHERRY, SCOTT, WHITMER, JACOBS, BRATER, CLARK-COLEMAN and SCHAUER and referred to the Committee on Judiciary.

A bill to amend 2004 PA 452, entitled
 "Identity theft protection act,"
 by amending section 9 (MCL 445.69).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) Subject to subsection (6), a person who violates
 2 section 5 or 7 is guilty of a felony punishable by imprisonment for
 3 not more than ~~5~~ 14 years or a fine of not more than \$25,000.00,
 4 or both.

5 (2) Sections 5 and 7 apply whether an individual who is a
 6 victim or intended victim of a violation of 1 of those sections is
 7 alive or deceased at the time of the violation.

8 (3) This section does not prohibit a person from being charged
 9 with, convicted of, or sentenced for any other violation of law
 10 committed by that person using information obtained in violation of

1 this section or any other violation of law committed by that person
2 while violating or attempting to violate this section.

3 (4) The court may order that a term of imprisonment imposed
4 under this section be served consecutively to any term of
5 imprisonment imposed for a conviction of any other violation of law
6 committed by that person using the information obtained in
7 violation of this section or any other violation of law committed
8 by that person while violating or attempting to violate this
9 section.

10 (5) A person may assert as a defense in a civil action or as
11 an affirmative defense in a criminal prosecution for a violation of
12 section 5 or 7, and has the burden of proof on that defense by a
13 preponderance of the evidence, that the person lawfully
14 transferred, obtained, or attempted to obtain personal identifying
15 information of another person for the purpose of detecting,
16 preventing, or deterring identity theft or another crime or the
17 funding of a criminal activity.

18 (6) Subsection (1) does not apply to a violation of a statute
19 or rule administered by a regulatory board, commission, or officer
20 acting under authority of this state or the United States that
21 confers primary jurisdiction on that regulatory board, commission,
22 or officer to authorize, prohibit, or regulate the transactions and
23 conduct of that person, including, but not limited to, a state or
24 federal statute or rule governing a financial institution and the
25 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, if
26 the act is committed by a person subject to and regulated by that
27 statute or rule, or by another person who has contracted with that

1 person to use personal identifying information.