

LEGAL SPOTLIGHT

SPECIAL POINTS OF INTEREST:

- Oregon Identity Theft Protection Act became law on Jan 1st, 2008.
- Adopting good security standards is proven to save companies money.
- Being able to document compliance can be a “get out of jail free card” in a lawsuit

INSIDE THIS ISSUE:

Business Insurance	2
Practical Compliance	2
Simplified Requirements	3
Accept Credit Cards?	4

BlackHat Consultants

Information Security Solutions

PROFESSIONAL IT SUPPORT FOR GROWING BUSINESSES

Oregon Law Mandates Security Policies

In January of 2008, the State of Oregon passed a strong law to help stop the wave of identity theft crimes. It has been nearly a year since the Oregon Identity Theft Protection Act (OITPA) became law, but many business owners are still unaware of how this law applies to their business and what practical steps need to be taken to become compliant.

In simple terms, the new law requires businesses to ensure the protection of Personally Identifiable Information (PII) on all Oregon residents.

This affects the entire range of businesses from sole proprietors to large corporations. Additionally, since non-profits also deal with PII, these entities must follow the same compliance re-



Regardless of the industry you are in, you must become compliant with this new law.

quirements as businesses.

This new law requires all Oregon businesses and organizations to develop and implement a com-

prehensive Information Security program. The law is similar to that of other states. The goal is to have businesses secure their operations so that it makes it harder for identity theft and hacking incidents to occur.

On a positive note for businesses, by enacting the steps to become compliant with Information Security laws, an organization can reap long-term savings from the beneficial effects of a good security program. These savings include less virus outbreaks, decreased downtime from data loss or corruption, a better educated workforce, and decreased reactive computer and network support costs.

What is your plan to make your business compliant?

The Perfect Storm: What Is On Your Radar?

When the economy is down, there is a trend to see more lawsuits. Some are to right wrongs, but a frightening number are frivolous lawsuits that are filed with the intent to make money from an incident.

Non-compliance with a law or industry requirement sets the stage for a negligence lawsuit. In the realm of Information Security compliance, you are “guilty until

proven innocent” by the very nature of having to prove you did everything correctly.

This new law and a weakened economy create a “perfect storm” for frivolous lawsuits against businesses. The best protection is clearly taking preventative steps to both become compliant and to maintain compliance.



Don't get caught in the storm—plan ahead and be safe!

But I Have Business Insurance



Does your business have a “negligence loophole” in your insurance policy?

‘Most business owners are unaware that non-compliance means negligence and negligence is not covered by insurance’



How protected is your company?

Business insurance is a necessity that no one will refute. Another common understanding is that insurers will look for loopholes to keep from paying out on a policy.

Most business owners are unaware of how Information Security lapses can negate their coverage entirely. This gap in coverage has the proven ability to put a company out of business for good.

How can this be? It is actually quite simple. Laws and industry regulations are known standards. When a business is required to be compliant, it must take steps to ensure due care and due diligence in meeting those requirements. This is the legal standard for determining responsible be-

havior by a business or individual.

Failing to follow or document due care and due diligence is evidence of negligent behavior. In a world of lawsuits, the ability to show documentation that your business doing what is required can be the difference between a having insurance cover the costs of a data breach and getting on with business or going bankrupt from being denied insurance coverage and having to pay the costs out of pocket.

What costs are typical in a non-compliance incident? Costs include everything from legal fees, breach notification costs such as press releases, fines, and lost business revenue from both the business interruption

as well as the loss of customer base.

When a company can prove compliance, through well documented policies and procedures, insurance works as it is supposed to by protecting the company from damaging lawsuits and expenses.

The weakness for most businesses is that they assume too much when it comes to their insurance coverage. Since the best defense is a strong offense, it is advisable to sit down with your insurance agent and ask the hard questions about your coverage with this new law.

You will find that your coverage will depend on your ability to prove compliance with the law.

What Is Really Required?

Within the Oregon Identity Theft Protection Act (OITPA) there are multiple requirements. According to the OITPA, companies must:

1. Designate an employee to coordinate a company security program
2. Identify and reasonably foresee internal and external risks
3. Assess the sufficiency of safeguards in place to control risk
4. Train and manage employees in security practices and procedures
5. Select service providers capable of maintaining appropriate safeguards
6. Regularly test and monitor the effectiveness of the security program
7. Be able to detect, prevent, and respond to intrusions
8. Enact proper disposal procedures for data
9. Have procedures in place for notification of data breaches
10. Assess risks to the storage and disposal of information classification

The building block of any security program is a set of Information Security policies, which contain the policies, procedures, standards, and guidelines to meet compliance minimums.

A graphical example of this can be seen on the following page.

MANDATORY COMPLIANCE REQUIREMENTS	Oregon State Law	PCI DSS	HIPAA	FACTA	GLBA	SOX
Information Security policies for employees & contractors	•	•	•	•	•	•
Take preventative action to protect against anticipated threats	•	•	•	•	•	•
Protect data from unauthorized access or disclosure	•	•	•	•	•	•
Appoint Information Security officer to oversee security program	•	•	•	•	•	•
Ensure the security & confidentiality of data	•	•	•	•	•	•
Secure destruction / disposal of physical & electronic data	•	•	•	•		
Implement a security awareness & training program	•	•	•	•		
Perform risk assessments	•	•	•	•		
Regularly test security systems & processes	•	•	•	•		
Adjust the security program according to risk management	•	•	•	•		
Monitor the effectiveness of all safeguards	•	•	•	•		
Ensure service providers are compliant with requirements	•	•	•	•		
Develop a contingency / data breach plan	•	•	•	•		
Ensure employees acknowledgement policies in writing	•	•	•			
Encrypt sensitive data during storage & transmission		•	•			
Restrict access to sensitive data by business need-to-know		•	•			
Conduct inventory and maintain accountability of sensitive data		•	•			
Track and monitor all access to network resources & data		•	•			•
Ensure default / vendor-supplied passwords are not used		•				
Maintain updated computer operating systems		•				
Maintain active & updated antivirus software		•				
Ensure network is protected by a hardware firewall		•				
Ensure wireless security minimum standards		•				
Develop and maintain secure systems & applications		•				
Assign users a unique ID & password for network access		•				
Perform quarterly vulnerability assessments		•				
Complete an annual compliance questionnaire		•				
Maintain current network diagram & hardware inventory		•				
Change user passwords no less than every 90 days		•				
Ensure complex passwords are used with at least 7 characters		•				
Maintain data for specific time periods			•			•
Measures to ensure data integrity is maintained						•
APPLICABLE PROFESSIONS	COMPLIANCE CONCERNS					
CPAs, bookkeepers and financial planners	•	•			•	
Realtors, title and real estate settlement companies	•	•			•	
Consumer credit agencies and debt collectors	•	•		•	•	
Mortgage brokers, lenders and automobile dealers	•	•		•		
Service providers (if they use credit reports)	•	•		•		
Lawyers	•	•	•	•	•	
Medical, dental, and mental health professionals	•	•	•			
Publicly traded companies	•	•			•	•
Businesses that maintain personal information on any resident	•					

OR SB 583 (Oregon ID Theft Protection Act)
PCI DSS Payment Card Industry (Industry-specific)
HIPAA Medical Privacy (Federal Law)

FACTA Credit Privacy (Federal law)
GLBA Financial Privacy (Federal law)
SOX Public Companies (Federal law)

BlackHat Consultants Information Security Solutions

BlackHat Consultants
19725 SW 49th Ave, Suite 201
Portland, OR 97062

(503) 427-8006 Office
(302) 635-8423 eFax

Customer Support:
support@BlackHatConsultants.com

Please visit us at:
www.BlackHatConsultants.com

Most computer and network consultants do not specialize in Information Security, so there is generally a void of attention shown to both regulatory & non-regulatory compliance. BlackHat Consultants was developed by a Certified Information Systems Security Professional (CISSP) and former military officer.

Our mission at BlackHat Consultants is to fill this void and provide growing businesses with a set of professionally written Information Security policies that their existing IT provider will be able to enact without issue.

Information Security is necessary for organizations to protect not only their clients, but their employees and partners. Information Security affects everyone in business.

Accept Credit Cards, Too?

While each industry has its own unique procedures and challenges, the security of credit card transactions is arguably the most significant liability facing businesses today. And most business owners are completely unaware of it.

The liability associated with accepting credit cards, regardless of how the transaction is performed, stems from the possible financial damages caused by noncompliance. If a company is noncompliant with accepted standards — known as the Payment Card Industry Data Security Standard — at the time of a data compromise or breach, the company faces retribution in several forms: fines from credit card companies, notification expenses to affected individuals, and the costs associated with reissuing cards to compromised card holders.

That's in addition to lawsuits brought forward by affected breach victims, whose identities or

financial data were compromised.

On a positive note for businesses, by enacting the steps to become compliant, an organization can reap long-term savings from the beneficial effects of a good security program. These savings include less virus outbreaks, decreased downtime from data loss or corruption, a better educated workforce, and decreased reactive computer and network support costs.

