To Clients and Friends **May 2006**

ARIZONA DATA-SECURITY LAW IMPARTS OBLIGATION TO ISSUE CONSUMER NOTIFICATIONS IN CASE OF SECURITY BREACH

Arizona recently enacted a statute imposing significant obligations upon companies that conduct business in Arizona and that that own or use electronically stored personal information about Arizona residents. As "personal information" can include individuals' social security numbers, financial account numbers, or drivers license numbers, this statute effects businesses that maintain electronic human resource records, collect or sell electronic data, or provide support services to other companies which collect such information. The statute goes into effect December 31, 2006.

1. What Is Data-Security?

Various states and federal agencies have adopted laws, rules, and regulations requiring companies to develop and implement security procedures to protect individuals' non-public personal information. In addition, many states require that if this information is accessed or acquired by an unauthorized individual, the company must report the event to consumers, state agencies, and the national credit reporting agencies. Common examples of data-security breaches include the loss or theft of a computer or disk containing personal information, the inadvertent electronic transmission of personal information to a third party (e.g. emailing), or network security breaches (e.g. hacking).

2. What Does The Arizona Law Require?

In the event that a company's data is acquired and accessed by an unauthorized person, a company may have to notify consumers that a data-security breach has occurred.

3. Is Arizona's Law Different From The Data-Security Laws Of Other States?

Over 27 states and territories have enacted data-breach notification statutes. Arizona's statute differs in largely minor respects from other state statutes. One important difference, however, is that unlike many state statutes, Arizona's attorney general is given sole authority to enforce the statute's provisions, and the attorney general may seek only actual damages or a civil penalty not to exceed $10,000. Other states have enabled consumers to bring suit in their own name, and have enabled civil penalties up to $150,000.

4. How Can My Company Comply With Arizona's Law?

Bryan Cave's Privacy and Information Security Team has extensive experience designing *comprehensive* data-security programs. The precise contours of such a program depend upon all of the laws, including Arizona's, to which your company may be subject. Any security program should, however

- Designate an employee to coordinate an information security program;
- Identify reasonably foreseeable internal and external risks to security;
- Assure that any contractors are capable of maintaining appropriate safeguards;
- Continually be evaluated (and reevaluated) to reflect new circumstances;
- Provide consumer notification plans in case of an inadvertent data-security breach.

5. What Should I Do If a Data-Security Breach Occurs?

Act immediately to prevent liability. The Bryan Cave Privacy and Information Security Team leverages extensive state and federal regulatory experience in designing data-security programs to respond to data-security breaches affecting individuals across the country. Bryan Cave's Privacy and Information Security Team can quickly respond to data-security breaches by identifying applicable notification requirements under various federal and states laws and designing appropriate consumer and governmental agency notifications.

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If you would like further information on how our experience can provide unparalleled insight before, and after, a data-security breach please contact any of the following attorneys:

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