

AMENDED IN SENATE APRIL 25, 2000

**SENATE BILL**

**No. 1724**

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**Introduced by Senator Dunn**  
(Coauthor: Assembly Member Machado)

February 23, 2000

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An act to amend Sections 17530.5 and 22253 of, *and to add Section 17530.6 to*, the Business and Professions Code, and to add Section 1799.15 to the Civil Code, relating to confidential records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1724, as amended, Dunn. Confidential records: tax records.

Existing law provides for the regulation of tax preparers and makes a violation of those provisions a crime and also makes it a crime for any individual or business, as specified, to disclose information obtained in the course of preparing or assisting in the preparation of a federal or state income tax return.

This bill would specify that each violation of the provisions regulating the practice of tax preparers constitutes a separate offense and would also specify that the provisions making it a crime to disclose information obtained in preparing or assisting in preparing tax returns also apply to disclosures made within a business entity that prepares or assists in preparing tax returns or to subsidiaries or affiliates, *as defined*, of that business. This bill would also prohibit the disclosure of information contained in tax returns and other information submitted by a consumer in connection with a financial or

other business-related ~~transactions~~ transaction. This bill would specify that the information prohibited from disclosure by these provisions includes that obtained through an electronic medium and would additionally require the disposal of this information to be made in a specified manner for confidentiality purposes.

Because this bill would enlarge the type of prohibited disclosures and would make it a crime to fail to dispose of certain information in a specified manner, the bill would both create a new crime and expand the definition of a an existing crime and, thereby ~~impose~~ imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17530.5 of the Business and  
 2 Professions Code is amended to read:  
 3 17530.5. (a) It is a misdemeanor for any person,  
 4 including an individual, firm, corporation, association,  
 5 partnership, or joint venture, or any employee or agent  
 6 thereof, to disclose any information obtained in the  
 7 business of preparing federal or state income tax returns  
 8 or assisting taxpayers in preparing those returns,  
 9 *including any instance in which this information is*  
 10 *obtained through an electronic medium, unless the*  
 11 disclosure is within any of the following:  
 12 (1) Consented to in writing by the taxpayer in a  
 13 separate document.  
 14 (2) Expressly authorized by state or federal law.  
 15 (3) Necessary to the preparation of the return.  
 16 (4) Pursuant to court order.



1 (b) For the purposes of this section, a person is  
2 engaged in the business of preparing federal or state  
3 income tax returns or assisting taxpayers in preparing  
4 those returns if he or she does either of the following:

5 (1) Advertises, or gives publicity to the effect that he  
6 or she prepares or assists others in the preparation of state  
7 or federal income tax returns.

8 (2) Prepares or assists others in the preparation of state  
9 or federal income tax returns for compensation.

10 (c) A disclosure prohibited by this section includes a  
11 disclosure made internally within the entity preparing or  
12 assisting in preparing the return or made by that entity  
13 to any of its subsidiaries or affiliates.

14 (d) For purposes of this section, “affiliate” means any  
15 entity that, directly or indirectly, through one or more  
16 intermediaries, controls, is controlled by, or is under  
17 common control with, another entity.

18 (e) Contacting a taxpayer to obtain his or her written  
19 consent to disclosure does not constitute a violation of this  
20 section.

21 SEC. 2. *Section 17530.6 is added to the Business and*  
22 *Professions Code, to read:*

23 *17530.6. It is a misdemeanor for any person, including*  
24 *an individual, firm, corporation, association, partnership,*  
25 *or joint venture, or any employee or agent thereof, to*  
26 *dispose of any of the information described in Section*  
27 *17530.5 in a manner in which the identity of the taxpayer*  
28 *may be determined from the disposed information alone*  
29 *or in combination with other publicly available*  
30 *information.*

31 SEC. 3. Section 22253 of the Business and Professions  
32 Code is amended to read:

33 22253. (a) It is a violation of this chapter for a tax  
34 preparer to do any of the following:

35 (1) Make, or authorize the making of, any statement  
36 or representation, oral or written or recorded by any  
37 means, which is intended to induce persons to use the tax  
38 preparation service of the tax preparer, which statement  
39 or representation is fraudulent, untrue, or misleading.



1 (2) Obtain the signature of a customer to a tax return  
2 or authorizing document which contains blank spaces to  
3 be filled in after it has been signed.

4 (3) Fail or refuse to give a customer, for his or her own  
5 records, a copy of any document requiring the customer's  
6 signature, within a reasonable time after the customer  
7 signs the document.

8 (4) Fail to maintain a copy of any tax return prepared  
9 for a customer for four years from the date of completion  
10 or the due date of the return, whichever is later.

11 (5) Engage in advertising practices which are  
12 fraudulent, untrue, or misleading, including, but not  
13 limited to, assertions that the bond required by Section  
14 22250 in any way implies licensure or endorsement of a  
15 tax preparer by the State of California.

16 (6) Violate Section 17530.5 or 17530.6.

17 (7) Violate Section 7216 of Title 26 of the United States  
18 Code.

19 (8) Fail to sign a customer's tax return when payment  
20 for services rendered has been made.

21 (9) Fail to return, upon the demand by or on behalf of  
22 a customer, records or other data provided to the tax  
23 preparer by the customer.

24 (10) Knowingly give false or misleading information to  
25 the consumer pursuant to Section 22252, or give false or  
26 misleading information to the surety company pursuant  
27 to subdivision (a) of Section 22250, or give false or  
28 misleading information to the California Tax Education  
29 Council pursuant to Section 22255.

30 (b) Each violation of this section constitutes a separate  
31 offense.

32 ~~SEC. 3.~~

33 SEC. 4. Section 1799.15 is added to the Civil Code, to  
34 read:

35 1799.15. (a) No person, including an individual, firm,  
36 corporation, association, partnership, or joint venture, or  
37 any employee or agent thereof, shall disclose information  
38 contained in a federal or state income tax return or any  
39 information submitted with the return by a consumer in  
40 connection with a financial or other business-related



1 transaction unless the disclosure is within any of the  
2 following:

- 3 (1) Consented to in writing by the consumer.
- 4 (2) Expressly authorized by state or federal law.
- 5 (3) Necessary to complete the financial or  
6 business-related transaction.
- 7 (4) Pursuant to court order.

8 (b) No unrelated use shall be made of a federal or state  
9 tax return or any information submitted with the return  
10 by a consumer in connection with a financial or other  
11 business-related transaction. “Unrelated use” means any  
12 use that is not necessary to effect, administer, or enforce  
13 the financial or other business-related transaction with  
14 the consumer or that is beyond the scope of the stated  
15 purpose to which the consumer consented for the use of  
16 the return or any other information he or she submitted.

17 ~~(e) A disclosure prohibited by this section includes a~~  
18 ~~disclosure made internally within the entity or by that~~  
19 ~~entity to any of its subsidiaries or affiliates.~~

20 ~~(d) “Consumer” means an individual who requests or~~  
21 ~~obtains financial or other business-related services.~~

22 (c) (1) *For purposes of this section, the following*  
23 *definitions shall apply:*

24 (A) *“Affiliate” means any entity that, directly or*  
25 *indirectly, through one or more intermediaries, controls,*  
26 *is controlled by, or is under common control with,*  
27 *another entity.*

28 (B) *“Consumer” means an individual who requests or*  
29 *obtains financial or other business-related services.*

30 (2) *A disclosure prohibited by this section includes a*  
31 *disclosure made internally within the entity or by that*  
32 *entity to any of its subsidiaries or affiliates.*

33 (3) *The information described in subdivision (a)*  
34 *includes that information obtained through an electronic*  
35 *medium.*

36 (d) *No person, including an individual, firm,*  
37 *corporation, association, partnership, or joint venture, or*  
38 *any employee or agent thereof, shall dispose of any of the*  
39 *information described in subdivision (a) in a manner in*  
40 *which the identity of the consumer may be determined*



1 *from the disposed information alone or in combination*  
2 *with other publicly available information.*

3 (e) The civil remedies in Chapter 3 (commencing  
4 with Section 1799.2) shall be applicable to a violation of  
5 this section.

6 ~~SEC. 4.~~

7 *SEC. 5.* No reimbursement is required by this act  
8 pursuant to Section 6 of Article XIII B of the California  
9 Constitution because the only costs that may be incurred  
10 by a local agency or school district will be incurred  
11 because this act creates a new crime or infraction,  
12 eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition  
15 of a crime within the meaning of Section 6 of Article  
16 XIII B of the California Constitution.

