

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 04/20/15

Action: Do Pass With Amendments. (Printed A-Eng.)

Meeting Dates: 03/26, 04/20

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Updates Oregon Consumer Identity Theft Protection Act. Requires notification to Attorney General of breach of security that affects more than 250 consumers. Makes violation of Act unlawful trade practice enforceable by prosecuting attorney. Expands definition of “personal information” to include data from automatic measurements of physical characteristics used to authenticate consumers’ identities, health insurance policy numbers in combination with other unique identifiers, and any information about consumers’ mental or physical health, medical history, or diagnosis or treatment. Expands use of last four digits of certain numbers to include passport number, financial account number, and credit card number. Exempts entities covered by Health Insurance Portability and Accountability Act (HIPAA) when copy of notice sent to consumers or federal regulators is also sent to Attorney General.

ISSUES DISCUSSED:

- Risks of identity theft
- New victim of identity theft every two seconds
- Identity theft can result in loss of money, credit, denial of medical services, tax repercussions, and others
- Need for update to Act to reflect increased sources of data
- Extension of enforcement authority to Attorney General
- Requirement to notify Attorney General of data breaches

EFFECT OF COMMITTEE AMENDMENT:

Clarify personal information definition. Changes trigger for notification to Attorney General from 100 consumers to 250 consumers. Deletes reference to social media sites. Clarifies that notification requirements do not apply to person who is in compliance with federal rules, regulations, procedures, or guidelines that are at least as thorough as those provided by Act. Exempts entities covered by Health Insurance Portability and Accountability Act (HIPAA) when copy of notice sent to consumers or federal regulators is also sent to Attorney General.

BACKGROUND:

The Oregon Consumer Identity Theft Protection Act was created in the 2007 Legislative Session by Senate Bill 583. Senate Bill 601 A is an update to Act. It expands the definition of “personal information” to include new sources of information, such as physical characteristics and health insurance policy numbers. It requires a person who suffers a data breach of the personal information of another to notify the Attorney General when that breach affects more than 250 consumers. SB 601 A also makes violation of the Act actionable by the Attorney General under the Unlawful Trade Practices Act. Entities, such as hospitals or health care plans, who are covered by HIPAA, are not subject to enforcement actions by the Attorney General if they provide notice to the Attorney General when notice is being provided to federal regulators.