

SB 1551 A -A9, -A11 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Meeting Dates: 2/26

WHAT THE MEASURE DOES:

Modifies Oregon Consumer Identity Theft Protection Act. Provides no charge for security freezes, thaws, or removal of security freeze in any circumstance. Requires notice of breach within 45 days of discovery or notification of breach, unless exception exists. Prohibits person giving notice of breach, who then offers credit monitoring or identity theft prevention and mitigation services free of charge to consumer, from requiring consumer give credit or debit card information or accept other for-fee services as condition of free services. Allows additional services to be offered for a fee if person notifies consumer separately, distinctly, clearly, and conspicuously that offer is for paid services. Extends prohibition to third-party contractors providing services. Updates safeguarding of data statutes to require certain existing actions be taken with reasonable regularity. Maintains current definitions; includes combination of data that permits access to an account as part of protected personal information. Clarifies that person with duty to give notice of breach is person who owns, licenses, has control over, or access to the personal information that was subject to the breach. Extends clarification into other provisions of measure. Adds standard of "reasonable" for efforts to safeguard data.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A9 Provides consistency when identifying who must provide notification of a data breach by deleting the qualifier that the personal information the person has control over or has access to was the "result of a transaction with a consumer." Enhances administrative, technical, and physical safeguards included in an information security program.

-A11 Enhances administrative, technical, and physical safeguards included in an information security program. Clarifies who must provide notice to consumers and, if required, the Attorney General, when breach of security occurs.

BACKGROUND:

Oregon enacted the Consumer Identity Theft Protection Act in 2007. Under the law, consumers must be given notice when a data breach of their personal information occurs; if more than 250 consumers are affected, notice must also be given to the Attorney General. The statutes also require personal information be safeguarded by those who own, maintain, or possess such information. Consumers have the right to protect their information by requesting the consumer reporting agencies freeze access to their consumer report. Under Oregon statutes, consumer reporting agencies are limited to charging no more than \$10 for placing or removing a security freeze. Victims of identity theft may not be charged a fee. Several states have prohibited the consumer reporting agencies from charging any fees to consumers wishing to freeze access to their information.

According to the Identity Theft Resource Center, there were 1,579 separate data breaches in 2017, with nearly 180 million individual records exposed. One breach reported in 2017 exposed the names, social security numbers, dates of birth, and in some cases, driver license numbers of 143 million Americans, with 209,000 individuals having their credit card numbers stolen. In response to that breach, a work group was formed to begin revising and updating Oregon's Consumer Identity Theft Protection Act.

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Senate Bill 1551-A is the product of that work group. It provides free-of-charge placement, removal, and temporary lifts of credit account freezes. If an entity suffers a breach and loses personal information, the notice of that breach must be given to the consumer within 45 days. Additionally, if the entity that suffers a breach provides free credit monitoring or mitigation services to consumers, the entity may not condition acceptance of the free offer on the consumer providing a credit or debit card number. If the entity wishes to offer other services, it must be offered separately and distinctly from the free service.