

MAINE STATE LEGISLATURE

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Date: 5/9/13

(Filing No. H-157)

Minority
INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 133, L.D. 158, Bill, "An Act To Amend the Notice of Risk to Personal Data Act To Further Protect Consumers"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 10 MRSA §1347, sub-§1, as amended by PL 2009, c. 161, §1 and affected by §5, is further amended to read:

1. Breach of the security of the system. "Breach of the security of the system" or "security breach" means unauthorized acquisition, release or use of an individual's computerized data or lost, misplaced or unaccounted for computerized data that includes personal information that compromises the security, confidentiality or integrity of personal information of the individual maintained by a person. Good faith acquisition, release or use of personal information by an employee or agent of a person on behalf of the person is not a breach of the security of the system if the personal information is not used for or subject to further unauthorized disclosure to another person.

Sec. 2. 10 MRSA §1348, sub-§1, as repealed and replaced by PL 2005, c. 583, §6 and affected by §14, is amended to read:

1. Notification to residents. The following provisions apply to notification to residents by information brokers and other persons.

A. If an information broker that maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the information broker shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or ~~will~~ may be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State ~~whose personal information has been, or is reasonably believed to have been, acquired by an unauthorized person~~ if misuse of the personal information has occurred or if it is reasonably possible that misuse may occur.

COMMITTEE AMENDMENT

1 B. If any other person who maintains computerized data that includes personal
 2 information becomes aware of a breach of the security of the system, the person shall
 3 conduct in good faith a reasonable and prompt investigation to determine the
 4 likelihood that personal information has been or ~~will~~ may be misused and shall give
 5 notice of a breach of the security of the system following discovery or notification of
 6 the security breach to a resident of this State if misuse of the personal information has
 7 occurred or if it is reasonably possible that misuse ~~will~~ may occur.

8 The notices required under paragraphs A and B must be made as expediently as possible
 9 and without unreasonable delay, consistent with the legitimate needs of law enforcement
 10 pursuant to subsection 3 or with measures necessary to determine the scope of the
 11 security breach and restore the reasonable integrity, security and confidentiality of the
 12 data in the system. Notice must be provided no later than 60 days after the discovery of
 13 the breach of the security of the system, except that, if lost, misplaced or unaccounted for
 14 computerized data is accounted for within 60 days of discovery of the breach of the
 15 security of the system, notice is not required.

16 **Sec. 3. 10 MRSA §1348, sub-§3**, as amended by PL 2009, c. 161, §3 and
 17 affected by §5, is further amended to read:

18 **3. Delay of notification; criminal investigation by law enforcement.** If, after the
 19 completion of an investigation required by subsection 1, ~~notification is required a person~~
 20 is required to provide notice under this section, a law enforcement agency may make a
 21 written request to that person to delay the notification required by this section ~~may be~~
 22 ~~delayed~~ for no longer than 7 business days ~~after a law enforcement agency determines so~~
 23 that the notification will not compromise a criminal investigation.

24 **Sec. 4. 10 MRSA §1348, sub-§5**, as amended by PL 2005, c. 583, §9 and
 25 affected by §14, is further amended to read:

26 **5. Notification to state regulators.** ~~When notice~~ Within 10 days after the discovery
 27 of a breach of the security of the system is required under subsection 1, the person shall
 28 notify the appropriate state regulators within the Department of Professional and
 29 Financial Regulation, or if the person is not regulated by the department, the Attorney
 30 General.'

31 **SUMMARY**

32 This amendment is the minority report of the committee and replaces the bill. This
 33 amendment does the following with respect to the Notice of Risk to Personal Data Act.

34 1. It clarifies the definition of "breach of the security of the system" to include lost,
 35 misplaced or unaccounted for computerized data that includes personal information and
 36 requires notice to be provided to residents affected by a breach within 60 days unless the
 37 computerized data becomes accounted for prior to the 60-day deadline.

38 2. It requires that notice of a breach must be provided to state regulators no later than
 39 10 days after discovery of the breach.

40 3. It clarifies that a notice to residents affected by a breach may be delayed only
 41 pursuant to a written request from a law enforcement agency.

ROFS

COMMITTEE AMENDMENT "A" to H.P. 133, L.D. 158

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4. It does not include the provision in the bill increasing the penalties for violations.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



126th MAINE LEGISLATURE

LD 158

LR 157(02)

An Act To Amend the Notice of Risk to Personal Data Act To Further Protect Consumers

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-151)
Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increase in civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.