

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Corbett Analyst: Dawn Hadid Bill Number: SB 46
Related Bills: See Legislative History Telephone: 845- 3391 Introduced Date: December 14, 2012
Attorney: Patrick Kusiak Sponsor:

SUBJECT: State Agencies Notify California Residents Of Any Breach Of Security Of System/Personal Information Includes Password, User Name Or Security Question And Answer For Account Other Than Financial Account

SUMMARY

This bill would expand the type of personal information acquired that triggers a notification to a California resident if the security of the information was compromised.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to further protect the privacy of California residents by notifying them of any breach in their account information.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2014, and would apply to security breach notifications issued on or after that date.

ANALYSIS

FEDERAL LAW /STATE LAW

Current federal and state law provides that income tax returns and tax information are confidential and may not be disclosed, unless specifically authorized by statute. Any Franchise Tax Board employee or member responsible for the improper disclosure of federal or state tax information is subject to criminal prosecution or fines or both. Improper disclosure of federal tax information is punishable as a felony, and improper disclosure of state tax information is punishable as a misdemeanor.

Current state law requires a state agency to notify a resident of California in the event their personal information has been acquired by an unauthorized person due to a breach of security of that agency's computer system. A "breach of the security of the system" is the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information; however, an employee or agent of an agency is authorized to acquire personal information to perform his or her work duties.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR) and Executive Officer (Selvi Stanislaus) with Date (1/31/13).

“Personal information” is defined as a person’s first name or first initial and last name, in combination with one or more of the following data elements when either the name or the data elements are not encrypted:

- Social security number;
- Driver’s license number or California Identification Card number;
- Account number, credit card number, or debit card number along with the required security code, access code, or password to an individual’s financial account;
- Medical information; or
- Health insurance information.

Personal information does not include information that is legally made available to the general public from federal, state, or local government records.

THIS BILL

This bill would add the data elements password, user name, or security question and answer for an account other than a financial account to the definition of “personal information”.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs and operations.

LEGISLATIVE HISTORY

SB 24 (Simitian, Chapter 197, Statutes of 2011) requires state agencies to provide specific information when notifying California residents of a system security breach containing personal information, notification electronically to the Attorney General when a single breach involves more than 500 California residents, and requires state agencies to provide the Office of Information Security within the Office of the Chief Information Officer with a security breach notification when a substitute notice is used.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California’s economy, business entity types, and tax laws. While all of these states have statutes similar to California’s statutes regarding breach of systems containing personal information, research failed to identify any statutes specifically related to notifying residents of a breach of data unrelated to a financial account.

FISCAL IMPACT

This bill would not impact the department’s costs because the provisions of the bill are consistent with the department’s current practices.

ECONOMIC IMPACT

This bill would not impact the state's tax revenues.

SUPPORT/OPPOSITION

Support: Los Angeles County Sheriff's Department, and Alameda County District Attorney's Office.¹

Opposition: None provided.

ARGUMENTS

Proponents: It could be argued that this bill would broaden privacy protections for California residents by increasing the scope of a personal information breach.

Opponents: Some would argue that allowing the breached agency, person, or business to determine additional factors that trigger notification to California residents would be the better solution for information security.

LEGISLATIVE STAFF CONTACT

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¹ As provided in the Senate Majority Leader Ellen M. Corbett's Senate Bill 46 Fact Sheet as of January 22, 2013.