

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Corbett	SB 46

SUBJECT

State Agencies Notify California Residents of Any Breach of Security of System/Personal Information Includes User Name or Email Address in Combination with Password or Security Question and Answer

SUMMARY

Under the Civil Code, this bill would expand the type of personal information that triggers a notification to a California resident if the security of the information was compromised.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

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/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.

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“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 “user name or email address, in combination with a password or security question and answer that would permit access to an online account” to the definition of “personal information.” If these additional data elements are acquired by an unauthorized person from an online account, an agency’s required notification to the California resident may be accomplished by either electronic or other form that directs the resident to make appropriate steps to protect or adjust the online account.

Additionally, this bill would incorporate changes made by AB 1149 of the 2013-2014 Session, that would become operative only if both bills are enacted, and this bill is enacted last.

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.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: Consumer Federation of California, Privacy Rights Clearing House, and California Department of Justice.

Opposition: None on file.

VOTES

Concurrence	09/04/13	Y: 38	N: 0
Assembly Floor	09/03/13	Y: 77	N: 0
Senate Floor	05/16/13	Y: 37	N: 0

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¹ As noted in the Assembly Judiciary Committee bill analysis of SB 46 dated June 17, 2013.