

HOUSE BILL 965

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7lr1032
CF SB 552

By: **Delegates S. Howard, Arentz, Chang, Clark, Ghrist, Jacobs, Malone, McDonough, Metzgar, Saab, Sophocleus, and B. Wilson**

Introduced and read first time: February 6, 2017

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2017

CHAPTER _____

1 AN ACT concerning

2 **Maryland Personal Information Protection Act – Security Breach Notification**
3 **Requirements – Modifications**

4 FOR the purpose of altering the applicability of certain security breach investigation and
5 notification requirements to certain businesses; authorizing a certain business to
6 elect to provide a certain notification; prohibiting a certain business from charging a
7 certain business a fee for providing information needed to provide a certain
8 notification or requiring or compelling a certain business to make a certain election;
9 prohibiting a certain business from using certain information for certain purposes;
10 ~~altering the provisions of law with which certain businesses and affiliates shall be~~
11 ~~deemed to be in compliance by being subject to and in compliance with certain federal~~
12 ~~laws and guidelines;~~ and generally relating to the Maryland Personal Information
13 Protection Act.

14 BY repealing and reenacting, without amendments,
15 Article – Commercial Law
16 Section 14–3504(a)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2016 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Commercial Law
21 Section 14–3504(b) and (c) and 14–3507
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2013 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

14–3504.

(a) In this section:

(1) “Breach of the security of a system” means the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of the personal information maintained by a business; and

(2) “Breach of the security of a system” does not include the good faith acquisition of personal information by an employee or agent of a business for the purposes of the business, provided that the personal information is not used or subject to further unauthorized disclosure.

(b) (1) A business that ~~owns or~~ licenses, **OR** MAINTAINS computerized data that includes personal information of an individual residing in the State, when it discovers or is notified [of] **THAT IT INCURRED** a breach of the security of a system, shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information of the individual has been or will be misused as a result of the breach.

(2) ~~IF SUBJECT TO SUBSECTION (C)(4) OF THIS SECTION, AND IF~~, after the investigation is concluded, the business determines that misuse of the individual’s personal information has occurred or is reasonably likely to occur as a result of a breach of the security of a system, the business shall notify the individual of the breach.

(3) Except as provided in subsection (d) of this section, the notification required under paragraph (2) of this subsection shall be given as soon as reasonably practicable after the business conducts the investigation required under paragraph (1) of this subsection.

(4) If after the investigation required under paragraph (1) of this subsection is concluded, the business determines that notification under paragraph (2) of this subsection is not required, the business shall maintain records that reflect its determination for 3 years after the determination is made.

(c) (1) A business that maintains computerized data that includes personal information that the business does not own or license shall notify the owner or licensee of the personal information of a breach of the security of a system if it is likely that the breach has resulted or will result in the misuse of personal information of an individual residing in the State.

1 (2) Except as provided in subsection (d) of this section, the notification
2 required under paragraph (1) of this subsection shall be given as soon as reasonably
3 practicable after the business discovers or is notified of the breach of the security of a
4 system.

5 (3) A business that is required to notify an owner or licensee of personal
6 information of a breach of the security of a system under paragraph (1) of this subsection
7 shall share with the owner or licensee information relative to the breach.

8 (4) (I) AFTER RECEIPT OF THE NOTIFICATION REQUIRED UNDER
9 PARAGRAPH (1) OF THIS SUBSECTION, THE BUSINESS THAT OWNS OR LICENSES THE
10 COMPUTERIZED DATA MAY ELECT TO PROVIDE ON BEHALF OF THE BUSINESS THAT
11 INCURRED THE BREACH OF THE SECURITY OF A SYSTEM ANY NOTIFICATION TO AN
12 INDIVIDUAL REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION.

13 ~~(5)~~ (II) ~~THE IF THE BUSINESS THAT INCURRED THE BREACH OF~~
14 ~~THE SECURITY OF A SYSTEM IS NOT THE OWNER OR LICENSEE OF THE~~
15 ~~COMPUTERIZED DATA, THE BUSINESS MAY NOT REQUIRE:~~

16 1. CHARGE THE BUSINESS THAT OWNS OR LICENSES
17 THE COMPUTERIZED DATA A FEE FOR PROVIDING INFORMATION NEEDED TO
18 PROVIDE THE NOTIFICATION UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

19 2. REQUIRE OR COMPEL A BUSINESS THAT OWNS OR
20 LICENSES THE COMPUTERIZED DATA TO MAKE THE ELECTION UNDER PARAGRAPH
21 ~~(4)~~ SUBPARAGRAPH (I) OF THIS SUBSECTION PARAGRAPH.

22 (III) IF A BUSINESS THAT OWNS OR LICENSES THE
23 COMPUTERIZED DATA ELECTS TO PROVIDE NOTICE UNDER SUBPARAGRAPH (I) OF
24 THIS PARAGRAPH, THE BUSINESS MAY NOT USE INFORMATION RELATIVE TO THE
25 BREACH OF THE SECURITY OF A SYSTEM FOR PURPOSES OTHER THAN PROVIDING
26 THE NOTIFICATION OR PROTECTING OR SECURING PERSONAL INFORMATION.

27 14-3507.

28 (a) In this section, "affiliate" means a company that controls, is controlled by, or
29 is under common control with a business described in subsection (c)(1) of this section.

30 (b) A business that complies with the requirements for notification procedures,
31 the protection or security of personal information, or the destruction of personal
32 information under the rules, regulations, procedures, or guidelines established by the
33 primary or functional federal or State regulator of the business shall be deemed to be in
34 compliance with this subtitle.

1 (c) (1) A business that is subject to and in compliance with § 501(b) of the
2 federal Gramm–Leach–Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate
3 Credit Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines
4 Establishing Information Security Standards, and the federal Interagency Guidance on
5 Response Programs for Unauthorized Access to Customer Information and Customer
6 Notice, and any revisions, additions, or substitutions, shall be deemed to be in compliance
7 with ~~§ 14-3503 OF~~ this subtitle.

8 (2) An affiliate that complies with § 501(b) of the federal
9 Gramm–Leach–Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate Credit
10 Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines Establishing
11 Information Security Standards, and the federal Interagency Guidance on Response
12 Programs for Unauthorized Access to Customer Information and Customer Notice, and any
13 revisions, additions, or substitutions, shall be deemed to be in compliance with ~~§ 14-3503~~
14 ~~OF~~ this subtitle.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.