

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 56
Economic Matters

(Delegate Pendergrass, *et al.*)

Finance

Consumer Protection - Privacy of Social Security Numbers

This bill prohibits specified disclosures of an individual's Social Security number (SSN). Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

The bill takes effect January 1, 2006.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources. Because the Department of Budget and Management has already negotiated health benefit plan contracts that would comply with the bill's requirements, the bill would codify existing procedure for the State health benefit plan.

Local Effect: Expenditures for local government employee health benefits could increase if carriers raise their premiums as a result of the bill's requirements. Any increase is expected to be minimal. Revenues would not be affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill prohibits a person from: (1) publicly posting or displaying an individual's SSN; (2) printing an individual's SSN on a card required to access products or services provided by the person providing the card; (3) requiring an individual to transmit the individual's SSN over the Internet unless there is a secure connection and

encryption protection; (4) initiate the transmission of an individual's SSN over the Internet unless there is a secure connection and encryption protection; (5) requiring an individual to use the individual's SSN to access an Internet web site, unless a password, unique personal identification, or other authentication device is also required; or (6) unless required by law, printing an individual's SSN on any material mailed to the individual, including an individual's SSN in material that is electronically transmitted to the individual without a secure connection or encryption protection, or including an individual's SSN in material that is sent by facsimile to the individual.

The bill does not apply to the use of an SSN: (1) for the purpose of meeting a legal requirement that mandates the use of an SSN; (2) in an application, form, or document sent by mail, electronic form, or facsimile under specified circumstances; (3) the use of an individual's SSN for internal verification or administrative purposes; or (4) an interactive computer service provider's transmission, routing, or intermediate temporary storage or caching of an individual's SSN.

The bill does not impose a duty on an interactive computer service provider or a telecommunications provider to monitor its services actively or to seek evidence of the transmission of SSNs on its service.

A person that uses an SSN prior to January 1, 2006 in a prohibited manner may continue to do so if: (1) the use is continuous; and (2) the person provides an annual disclosure form stating an individual's right to stop the use of the individual's SSN. An individual's written request to stop using the individual's SSN in a prohibited manner must be honored within 30 days after receiving the request. A person may not deny products or services to an individual because of a request to stop using the individual's SSN. These grandfathering and related provisions terminate December 31, 2008.

The bill applies to health insurance policies and contracts issued, delivered, or renewed on or after January 1, 2006. A health insurance policy or contract in effect before January 1, 2006 must comply by January 1, 2007.

Current Law: The State, local governments, local school systems, and public institutions of higher education may not print an employee's SSN on any type of identification card. A local school system and a public institution of higher education may not print a student's SSN on any type of identification card. The Motor Vehicle Administration may not use, include, or encode, in any form, an individual's SSN on the individual's driver's license. Use of an individual's SSN is not prohibited in other instances.

Background: The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair or deceptive trade practice claims under the Maryland Consumer Protection Act. The division may attempt conciliation, issue cease
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and desist orders, or seek action in court, including an injunction, to enforce the Maryland Consumer Protection Act.

Various sections of the State code require the use of an SSN, including various licensing requirements and, if the testator's SSN is available, the deposit of a will with the local register of wills. Use of an individual's SSN may also be required under federal law in certain instances, including in an application for federal student financial aid.

California recently adopted a provision similar to this bill.

Small Business Effect: Small businesses that use the SSN for identifying information would experience increased costs to comply with the bill. These costs are expected to be one-time costs but could be significant depending on the nature of the business.

Additional Information

Prior Introductions: Similar legislation was introduced in each of the last four sessions. In 2004, SB 117 was passed by both houses but was vetoed by the Governor. Also in 2004, HB 74 was amended and passed in the House. It was amended again in the Senate. The House refused to concur in those amendments and requested to Senate to recede from its position; however, no further action was taken before adjournment sine die. In 2003, HB 692 was referred by the Economic Matters Committee to interim study, and the committee held a briefing on the issue. Other similar bills, HB 134 and SB 621, were also introduced in 2003 but were withdrawn. Similar bills were also introduced in the 2002 (HB 281) and 2001 (HB 893) sessions. Both bills received unfavorable reports from the House Commerce and Government Matters Committee.

Cross File: None.

Information Source(s): Department of Budget and Management, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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