

SB0194/493993/1

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL 194
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 13, after “given;” insert “specifying the contents of the notification;”; in line 14, after “manner;” insert “requiring certain businesses to retain certain records for a certain period of time under certain circumstances;”; and in line 21, after “circumstances;” insert “requiring a business to provide notice of a breach of the security of a system to the Office of the Attorney General prior to giving a certain notification;”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 29 and 30 and substitute:

“(C) “ENCRYPTED” MEANS THE TRANSFORMATION OF DATA THROUGH THE USE OF AN ALGORITHMIC PROCESS INTO A FORM IN WHICH THERE IS A LOW PROBABILITY OF ASSIGNING MEANING WITHOUT USE OF A CONFIDENTIAL PROCESS OR KEY.”

On page 3, in line 1, strike “(C)” and substitute “(D)”; in line 8, strike “OR”; in line 12, after “ACCOUNT” insert “; OR

(IV) AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER;

and in line 24, strike “(D)” and substitute “(E)”.

AMENDMENT NO. 3

On page 5, strike beginning with “AND” in line 11 down through “THEFT” in line 12; strike beginning with the colon in line 16 down through “THE” in line 17 and

(Over)

substitute “THE”; strike beginning with the semicolon in line 18 down through “THEFT” in line 20; strike beginning with the second “THE” in line 25 down through “THEFT” in line 26 and substitute “PERSONAL INFORMATION OF THE INDIVIDUAL HAS BEEN OR WILL BE MISUSED AS A RESULT OF THE BREACH”; in line 28, strike “REASONABLY BELIEVES” and substitute “DETERMINES”; strike beginning with the first “THE” in line 28 down through “STATE” in line 30 and substitute “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”.

On page 6, after line 5, insert:

“(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.”;

in lines 10 and 11, strike “A MATERIAL RISK OF IDENTITY THEFT” and substitute “THE MISUSE”; and after line 16, insert:

“(3) A BUSINESS THAT IS REQUIRED TO NOTIFY AN OWNER OR LICENSEE OF PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SHARE WITH THE OWNER OR LICENSEE INFORMATION RELEVANT TO THE BREACH.”.

AMENDMENT NO. 4

On page 7, in line 6, after “BUSINESS” insert “**, IF:**”

(I) THE INDIVIDUAL HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC NOTICE; OR

(II) THE BUSINESS CONDUCTS ITS BUSINESS PRIMARILY THROUGH INTERNET ACCOUNT TRANSACTIONS OR THE INTERNET”;

in line 12, strike “\$25,000” and substitute “\$100,000”; and in line 13, strike “50,000” and substitute “175,000”.

AMENDMENT NO. 5

On page 7, after line 25, insert:

“(G) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON, INCLUDING WHICH OF THE ELEMENTS OF PERSONAL INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED;

(2) CONTACT INFORMATION FOR THE BUSINESS MAKING THE NOTIFICATION, INCLUDING THE BUSINESS’ ADDRESS, TELEPHONE NUMBER, AND TOLL-FREE TELEPHONE NUMBER IF ONE IS MAINTAINED;

(3) THE TOLL-FREE TELEPHONE NUMBERS AND ADDRESSES FOR THE MAJOR CONSUMER REPORTING AGENCIES; AND

(4) (I) THE TOLL-FREE TELEPHONE NUMBERS, ADDRESSES, AND WEBSITE ADDRESSES FOR:

(Over)

1. THE FEDERAL TRADE COMMISSION; AND

2. THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) A STATEMENT THAT AN INDIVIDUAL CAN OBTAIN INFORMATION FROM THESE SOURCES ABOUT STEPS THE INDIVIDUAL CAN TAKE TO AVOID IDENTITY THEFT.”;

strike beginning with “(G)” in line 26 down through “A” in line 27 and substitute:

“(H) PRIOR TO GIVING THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, A”;

and strike beginning with “**WITHIN**” in line 28 down through “**BREACH**” in line 30.

On page 8, strike in their entirety lines 1 through 9, inclusive; in line 10, strike “(H)” and substitute “(I)”; and in line 12, strike “(I)” and substitute “(J)”.