



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 201

Commercial Law – Personal Information Protection Act – Revisions

Senate Finance Committee

Wednesday, February 12, 2020

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 4,500 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families.

The purpose of the state's data breach law is to require that state residents be notified when there has been an unauthorized acquisition of certain types of unencrypted, computerized personal information (PI) that could lead to a risk of financial harm or identity theft. SB 201 seeks to change this law in a manner that causes concerns to the broader business community.

Some of the primary concerns with SB 201 include:

- Proposals to add to the list of data elements that can trigger a breach notification. For example, a breach could now occur if the data involves a name in combination with "activity-tracking data" and any information or data derived from it. No other state's data breach law includes this data point.
- There are several changes in the bill with respect to specified time periods in providing notices of a data breach. It is typical that state data breach laws allow for a delay in providing notices when requested by law enforcement – this bill does not include any such language.
- As is the case with all other states, Maryland's current law allows for "substitute notice" of a data breach that may be given, if certain conditions are met, in lieu of notice by postal or electronic mail or telephone. This bill proposes mandated public notice by posting on websites and the notification of media. This has the potential to cause extreme confusion and worry for individuals who may not be impacted by the breach. This radically changes the structure of "substitute notice," which is not in line with any other state.
- The provision requiring a notice to the Maryland Attorney General for "any vulnerabilities that were exploited," which would then be posted to the AG's website, provides a roadmap for criminals to find and exploit weaknesses in other systems.

The Maryland Chamber of Commerce strongly urges cooperation with the stakeholders impacted by the outcomes of SB 201 to find a solution that meets the intent of this legislation in an effective and sensible manner without undue burden.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on SB 201.

