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MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 19, 2020

Senate Finance Committee

Senate Bill 443 – Consumer Protection – Security Features for Connected Devices

Senate Bill 443 codifies existing federal guidelines under the unfair trade practices section of the commercial law article, as a recommendation of the Maryland Cybersecurity Council. I introduced a similar bill last year, but we have refined the bill to fit within existing Maryland consumer protections. Existing guidelines from the Federal Communications Commission recommend that the manufacturer of an internet connected device create a “reasonable security feature” for that device. Within that guidance, this bill clarifies that adopting a unique code for each device is a reasonable security feature to satisfy the policy intent of the FCC guidance. This legislation is also very similar to a law that passed in California in 2018, and went into effect this year. Similar legislation been enacted in Oregon and has recently been proposed in Illinois as well as by our neighbors in Virginia.

In other words, this bill simply codifies the best practices for cybersecurity protections for connected devices. Internet of Things (IoT) connected devices are simply physical objects capable of connecting to the internet. Most of these items are in our homes, like our televisions, refrigerators, home security systems, and washer-driers. These systems, protected only with a default password or other meager security device, can easily be hacked, weaponized and otherwise sabotaged.

As the fiscal note provides, the Consumer Protection Division remains responsible for enforcing and investigating consumer complaints. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. This is at the discretion of the Office of Attorney General. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation.

We've gotten some pushback from industry who want to see us explicitly exempt devices from MD regulation that are already regulated by federal rules. We think that's redundant, since the federal rules with contrary policy intent would already preempt state action in the space, but we're happy to clarify that with explicit language in our bill. That amendment is currently being prepared and we will provide it to committee counsel this week.

This legislation may seem to foresee futuristic problems, but the problems it aims to contain already exist, and we cannot hesitate or wait for the private sector to perfect their standards on their own. This proposed measure is an important function of state government in the 21st century. Denial of services attacks are just the beginning. There are implications with domestic violence, stalking, government overreach and the unknown. Our laws must try to keep pace with technology. Or the problems that technology creates will overtake our liberties and the means to get them back.

For this reason, I ask for a favorable report on SB 443, as amended.