



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

House Bill 4147: Lessons Learned from the Equifax Data Breach

Background: Oregonians reported losses of \$12.8 million due to cybercrimes in 2016, according to the Federal Bureau of Investigation’s Internet Crime Complaint Center. Breached personal information is what feeds many cybercrimes, and 2017 saw some of the largest breaches on record. On September 7, 2017, Equifax, one of the three powerful credit reporting agencies, announced that due to a breach of security in their systems, over half the country’s Social Security Numbers were breached. Oregon fared no better – over 1.7 million of Oregonians’ information was breached. As one cannot change their Social Security Numbers, this is a breach that will follow Oregonians for many years to come.

Not only does the sheer size of the breach cause concern, but the Equifax story revealed many other failures and unfair practices. To name a few:

- Even though they had warning about the vulnerability and a patch, it took over 4 months to realize they failed to apply the patch: hackers had access to the sensitive information for over 2 months.
- Even though they discovered the problem late July, it took until September to announce the breach and notify consumers
- For breach remediation, they offered free credit monitoring services to effected consumers, but the offer contained small print with forced arbitration and a waiver of any lawsuit connected to the breach
- They and other credit reporting agencies steered consumers away from credit freezes, and into other pay-per-month type services
- In the wake of the breach, Equifax’s communications were extremely poor: some materials had the wrong website (the website listed was actually for a scam), phone lines and website crashed

Concept: The Equifax breach and the Attorney General’s enforcement experience in this area have brought to light some areas for improvement in Oregon’s data breach law.

First, the bill puts a cap on notice to consumers at 45 days, while still requiring notice in the most expedient manner. This will allow consumers the notice they need to keep vigilant.

Second, the bill addresses a common consumer complaint in wake of the breach – paying a fee to freeze credit. A consumer is forced to have a credit score in order to engage with modern commerce, and therefore should have some control over the information they submit. Freezing credit is one of the best preventative measures a consumer can take to protect their credit from fraudulent uses. Making freezes free, like some other states, is the best way to help consumers use this very important tool. The bill provides that a consumer may freeze credit for free once a year, and “thaw” it for free at any time.

Third, the bill makes some updates to ensure the message is clear to companies that are supposed to have security for our personal information: they must monitor for updates to their security with reasonable regularity.

Finally, the bill addresses a problem with post-breach remediation services – these are free services that breached companies offer to consumers in order to re-build consumer trust. Companies are confusing consumers on what constitutes the free services, and often upsell consumers on paid-for services, whether at the time of enrollment or through auto-billing later. Consumers are surprised and frustrated to learn that not only have they been breached, but now they are paying for a service they thought was free. Companies have a particularly strong advantage – they have a captive client during breach remediation, and have been taking advantage of that situation. The bill would address some of the inequity here.

Oregonians need these protections. The Department Justice urges your support of this bill to help consumers defend against identity theft and fraud, crimes that have only increased in an ever-connected world.

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