

HB 4147 -4 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/7, 2/9, 2/12

WHAT THE MEASURE DOES:

Prohibits consumer reporting agency (CRA) from charging consumer a fee to freeze or unfreeze access to consumer's information. Requires persons who own, license, possess or has access to consumer's personal information to notify financial institutions and merchant services providers when data security is breached. Requires financial institutions and merchant services providers that discover or knows of data breach of another person to notify the other person. Requires notice of data breach be made within 45 days of discovery or receiving notification of breach. Prohibits person providing free credit monitoring that is connected to a data breach from offering to sell additional services or from limiting the free service to those who purchase additional services. Modifies the standards for safeguarding personal information. Provides person with authority to initiate civil action on behalf of the State of Oregon for violations of identity theft protection statutes. Takes effect 91 days following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-4 Replaces original measure.

Prohibits consumer reporting agency (CRA) from charging consumer a fee to place, remove or temporarily lift a security freeze.

Expands who must provide notification when security breach occurs to include person who has control over or has access to personal information.

Requires notice of data breach be made in most expeditious manner and that it be made within 45 days of discovering or receiving notice of the breach.

Establishes requirements when offering free credit monitoring services or identity theft prevention and mitigation services to a consumer who has been notified of a security breach.

Modifies standards for safeguarding personal information. Extends duties to safeguard personal information to those who have control over or access to personal information.

Provides right of private action under Unlawful Trade Practices Act for violations of identity theft protection statutes.

Expands definition of personal information; definition does not include geolocation information and certain photographs or images.

Takes effect 91 days following adjournment sine die.

BACKGROUND:

Major data breaches in the recent past include Home Depot (50 million consumers), Target (412 million consumer), Yahoo (3 billion users), and Equifax (143 million consumers). Cybercriminals who obtain personal information such as name, address, date of birth, social security number are able to open accounts, receive goods and services, and apply for financing under the stolen identity.

Oregon enacted identity theft prevention laws in 2007. When a data breach occurs, Oregon statutes require notice be given to affected consumers and, if more than 250 consumers are affected, notice must also given to the Attorney General. The statutes also require personal information be safeguarded by those who own, maintain or possess such information. Consumers have the right to protect their information by requesting the consumer reporting agencies freeze access to their consumer report. Under Oregon statutes, consumer reporting agencies are limited to charging

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no more than \$10 for placing or removing a security freeze. Victims of identity theft may not be charged a fee. Several states have prohibited the consumer reporting agencies from charging any fees to consumers who freezing access to their information.