S T A T E O F N E W Y O R K

2117

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to identity theft prevention

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new article 32-A to read as follows:

ARTICLE 32-A

IDENTITY THEFT PREVENTION

SECTION 676. DEFINITIONS.

677. IDENTITY THEFT PREVENTION.

678. APPLICATION OF ARTICLE.

679. BANKING DEPARTMENT APPROVAL.

S 676. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE TERM:

1. "BUSINESS ORGANIZATION" SHALL MEAN ANY PERSON, FIRM, ASSOCIATION, PARTNERSHIP OR CORPORATION ENGAGED IN BUSINESS IN NEW YORK STATE;

2. "INFORMATION SECURITY PLAN" SHALL MEAN A BUSINESS ORGANIZATION'S RISK-BASED APPROACH TO SAFEGUARDING THE PERSONAL INFORMATION COLLECTED AND RETAINED FOR THE PURPOSES OF EMPLOYMENT OR THE PROVISION OF GOODS OR SERVICES DEVELOPED PURSUANT TO SECTION SIX HUNDRED SEVENTY-SEVEN OF THIS ARTICLE.

S 677. IDENTITY THEFT PREVENTION. 1. ANY BUSINESS ORGANIZATION DOING BUSINESS IN THIS STATE, EXCEPT AS SET FORTH IN SECTION SIX HUNDRED SEVENTY-EIGHT OF THIS ARTICLE, SHALL DEVELOP AN INFORMATION SECURITY PLAN SUBJECT TO THE APPROVAL OF THE NEW YORK STATE BANKING DEPARTMENT.

2. SUCH INFORMATION SECURITY PLAN SHALL:

A. IDENTIFY AND ASSESS THE RISKS TO CUSTOMER INFORMATION AND EVALUATE THE EFFECTIVENESS OF THE CURRENT SAFEGUARDS FOR CONTROLLING SUCH RISKS;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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B. SET FORTH, IMPLEMENT, REGULARLY MONITOR AND TEST A PROGRAM TO SAFEGUARD ANY PERSONAL INFORMATION COLLECTED AND RETAINED FOR THE PURPOSES OF EMPLOYMENT OR THE PROVISION OF GOODS OR SERVICES;

C. TAKE REASONABLE STEPS TO SELECT AND RETAIN INTERNET SERVICE PROVIDERS THAT ARE CAPABLE OF MAINTAINING APPROPRIATE SAFEGUARDS FOR THE CUSTOMER INFORMATION THAT YOU MUST RETAIN IN ORDER TO DO BUSINESS;

D. BE EVALUATED AND ADJUSTED TO REFLECT RELEVANT CIRCUMSTANCES, INCLUDING CHANGES IN BUSINESS OPERATIONS OR AS A RESULT OF TESTING AND MONITORING;

E. ENSURE THE SECURITY AND CONFIDENTIALITY OF PERSONAL RECORDS AND INFORMATION;

F. PROTECT AGAINST ANY ANTICIPATED THREATS OR HAZARDS TO THE SECURITY OR INTEGRITY OF SUCH PERSONAL RECORDS AND INFORMATION;

G. PROTECT AGAINST UNAUTHORIZED ACCESS TO, OR USE OF, PERSONAL RECORDS AND INFORMATION THAT COULD RESULT IN SUBSTANTIAL HARM OR INCONVENIENCE TO ANY CUSTOMER OR EMPLOYEE; AND

H. BE APPROPRIATE TO THE SIZE AND COMPLEXITY OF EACH BUSINESS ORGANIZATION.

S 678. APPLICATION OF ARTICLE. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO ANY BUSINESS ORGANIZATION DOING BUSINESS IN THIS STATE EXCEPT:

1. THOSE SUBJECT TO REGULATION UNDER THE GRAMM-LEACH-BLILEY ACT, THE FEDERAL TRADE COMMISSION (HEREAFTER "FTC") PRIVACY RULE AND THE FTC'S STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION, ALSO KNOWN AS THE FTC'S SAFEGUARDS RULE, AS IMPLEMENTED BY 16 C.F.R. PART 314; AND

2. ANY AGENCY OR UNIT OF THE STATE OF NEW YORK AND ANY POLITICAL SUBDIVISION THEREOF INCLUDING MUNICIPALITIES AND ANY BUSINESS ORGANIZATIONS REGULATED BY THE UNITED STATES GOVERNMENT.

S 679. BANKING DEPARTMENT APPROVAL. EACH INFORMATION SECURITY PLAN DEVELOPED PURSUANT TO SECTION SIX HUNDRED SEVENTY-SEVEN OF THIS ARTICLE IS SUBJECT TO APPROVAL IN ACCORDANCE TO REGULATIONS DEVELOPED BY THE NEW YORK STATE BANKING DEPARTMENT.

S 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, that, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.