STATE OF NEW YORK

9797

IN ASSEMBLY

February 13, 2020

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to notification of a data breach

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 2 and 3 of section 899-aa of the general business law, as amended by chapter 117 of the laws of 2019, are amended to read as follows:

2. Any person or business which owns or licenses computerized data which includes private information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of New York state whose private information was, or is reasonably believed to have been, accessed or acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, [~~consistent with~~] **and shall be made within fifteen days after the breach has been discovered, except for** the legitimate needs of law enforcement, as provided in subdivision four of this section[~~, or any measures necessary to determine the scope of the breach and restore the integrity of the system~~].

(a) Notice to affected persons under this section is not required if the exposure of private information was an inadvertent disclosure by persons authorized to access private information, and the person or business reasonably determines such exposure will not likely result in misuse of such information, or financial harm to the affected persons or emotional harm in the case of unknown disclosure of online credentials as found in subparagraph (ii) of paragraph (b) of subdivision one of this section. Such a determination must be documented in writing and maintained for at least five years. If the incident affects over five hundred residents of New York, the person or business shall provide the written determination to the state attorney general within ten days after the determination.

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

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(b) If notice of the breach of the security of the system is made to affected persons pursuant to the breach notification requirements under any of the following laws, nothing in this section shall require any additional notice to those affected persons, but notice still shall be provided to the state attorney general, the department of state [~~and~~], the division of state police **and the department of financial services** pursuant to paragraph (a) of subdivision eight of this section and to consumer reporting agencies pursuant to paragraph (b) of subdivision eight of this section:

(i) regulations promulgated pursuant to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. 6801 to 6809), as amended from time to time;

(ii) regulations implementing the Health Insurance Portability and Accountability Act of 1996 (45 C.F.R. parts 160 and 164), as amended from time to time, and the Health Information Technology for Economic and Clinical Health Act, as amended from time to time;

(iii) part five hundred of title twenty-three of the official compilation of codes, rules and regulations of the state of New York, as amended from time to time; or

(iv) any other data security rules and regulations of, and the statutes administered by, any official department, division, commission or agency of the federal or New York state government as such rules, regulations or statutes are interpreted by such department, division, commission or agency or by the federal or New York state courts.

3. Any person or business which maintains computerized data which includes private information which such person or business does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately **and within fifteen days** following discovery, if the private information was, or is reasonably believed to have been, accessed or acquired by a person without valid authorization.

§ 2. Paragraph (a) of subdivision 8 of section 899-aa of the general business law, as amended by chapter 117 of the laws of 2019, is amended to read as follows:

(a) In the event that any New York residents are to be notified, the person or business shall notify the state attorney general, the department of state [~~and~~], the division of state police **and the department of financial services** as to the timing, content and distribution of the notices and approximate number of affected persons and shall provide a copy of the template of the notice sent to affected persons. Such notice shall be made without delaying notice to affected New York residents.

§ 3. This act shall take effect immediately.