

Fiscal Estimate - 2017 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 17-3273/1	Introduction Number SB-233
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Description
 privacy and security of customer information obtained by a broadband Internet access service provider and providing a criminal penalty

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs		5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DATCP/ David Woldseth (608) 224-5164	Authorized Signature Jason Gherke (608) 224-4748	Date 5/24/2017
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Fiscal Estimate Narratives

DATCP 5/24/2017

LRB Number	17-3273/1	Introduction Number	SB-233	Estimate Type	Original
Description privacy and security of customer information obtained by a broadband Internet access service provider and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

This bill generally prohibits a broadband Internet access service provider ("provider") from using, disclosing, or permitting access to a customer's proprietary information unless the customer grants approval to the provider to use, disclose, or permit access to that information. The bill requires that when a provider makes a material change to its policies concerning the privacy of customer proprietary information, the provider must give to each customer a similar notice that also includes a specific description of the changes made to the privacy policies. The bill requires providers to take reasonable security measures to protect customer proprietary information from unauthorized use, disclosure, or access. Further, when a breach of the provider's security occurs, the provider is required to notify each affected customer within 30 days after learning of the breach unless the provider reasonably determines that no harm to the customer is reasonably likely to occur as a result.

Most relevant to DATCP, the bill also requires a provider to notify the department and the Department of Justice (DOJ) within seven business days of learning about a breach of security affecting 5,000 or more customers unless the provider reasonably determines that no harm to customers is likely to occur as a result of the breach. If a breach of security affects fewer than 5,000 customers, the bill requires a provider to notify DATCP within 30 days after learning about the breach. Under the bill, a provider is required to maintain records for two years that contain information about the notifications made to customers about a breach of security.

A broadband Internet access service provider that intentionally violates the bill is subject to a criminal fine of up to \$1,000, or up to three months in jail, or both. Alternatively, a provider that violates the bill is subject to a civil forfeiture of up to \$50,000 for the first violation, and up to \$100,000 for each subsequent violation. Additionally, under the bill, any person or class of persons that is adversely affected by a violation by a broadband Internet access service provider can sue the provider for appropriate relief. The bill also authorizes 1) DATCP; 2) DOJ, after consulting with DATCP; or 3) any district attorney, upon informing DATCP, to bring an action to restrain by temporary or permanent injunction any violation of the bill.

After the law's effective date, DATCP's Bureau of Consumer Protection would help educate providers on the requirements of the bill and consumers on their choices to opt-in and opt-out of allowing their information to be used, disclosed, etc. Based on prior experience implementing new laws, the department will conduct investigations based on patterns and trends in consumer complaints and use a progressive investigation and enforcement philosophy to gain compliance with the law. As with any new consumer protection law, there will be an increase in consumer complaints and inquiries; however, history shows that increases are typically temporary. The department would refer violations to local prosecutors or DOJ when necessary.

DATCP has not previously regulated online privacy; therefore, we cannot determine how many consumer complaints about potential violations the department would receive. We believe this bill would create additional complaints and increase costs for DATCP, but we are unable to estimate a dollar amount at this time. We do believe the amount can be absorbed into existing operations and funding.

Long-Range Fiscal Implications

The department does not anticipate any additional rulemaking and would absorb any additional work into its normal business functions when a breach of privacy occurs. Since breaches happen due to a result of many, varying circumstances, the department cannot estimate the long-range fiscal implications of response to breaches. The department expects other work may be delayed during major reported events.