
HOUSE BILL 2574

State of Washington

60th Legislature

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By Representative Moeller

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1 AN ACT Relating to securing personal information accessible through
2 the internet; amending RCW 19.255.010; and adding new sections to
3 chapter 19.255 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.255 RCW
6 to read as follows:

7 (1) Any person or business that conducts business in this state
8 must use encryption to secure personal information if the person or
9 business is transmitting or storing personal information on a computer
10 server primarily accessed through either a direct connection to the
11 internet, or a computer network that is primarily accessed over the
12 internet.

13 (2) A person or business is in compliance with this section if the
14 person or business uses encryption practices that are generally
15 accepted by the industry.

16 (3) Any waiver of the provisions of this section is contrary to
17 public policy, and is void and unenforceable.

18 (4) This section does not apply to personal information transmitted
19 or stored on a closed network or a virtual private network.

1 (5) The department of information services shall adopt rules to
2 implement this section.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.255 RCW
4 to read as follows:

5 The legislature finds that the practices covered by this chapter
6 are matters vitally affecting the public interest for the purpose of
7 applying the consumer protection act, chapter 19.86 RCW. A violation
8 of this chapter is not reasonable in relation to the development and
9 preservation of business and is an unfair or deceptive act in trade or
10 commerce and an unfair method of competition for the purpose of
11 applying the consumer protection act, chapter 19.86 RCW.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.255 RCW
13 to read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Breach of the security of the system" means unauthorized
17 acquisition of computerized data that compromises the security,
18 confidentiality, or integrity of personal information maintained by the
19 person or business. Good faith acquisition of personal information by
20 an employee or agent of the person or business for the purposes of the
21 person or business is not a breach of the security of the system when
22 the personal information is not used or subject to further unauthorized
23 disclosure.

24 (2) "Encryption" means use of an algorithmic process to transform
25 data into a form in which the data is rendered unreadable or unusable
26 without use of a confidential process or key.

27 (3)(a) "Personal information" means an individual's first name or
28 first initial and last name in combination with any one or more of the
29 following data elements, when either the name or the data elements are
30 not encrypted:

- 31 (i) Social security number;
- 32 (ii) Driver's license number or Washington identification card
33 number; or
- 34 (iii) Account number or credit or debit card number, in combination
35 with any required security code, access code, or password that would
36 permit access to an individual's financial account.

1 (b) "Personal information" does not include publicly available
2 information that is lawfully made available to the general public from
3 federal, state, or local government records.

4 **Sec. 4.** RCW 19.255.010 and 2005 c 368 s 2 are each amended to read
5 as follows:

6 (1) Any person or business that conducts business in this state and
7 that owns or licenses computerized data that includes personal
8 information shall disclose any breach of the security of the system
9 following discovery or notification of the breach in the security of
10 the data to any resident of this state whose unencrypted personal
11 information was, or is reasonably believed to have been, acquired by an
12 unauthorized person. The disclosure shall be made in the most
13 expedient time possible and without unreasonable delay, consistent with
14 the legitimate needs of law enforcement, as provided in subsection (3)
15 of this section, or any measures necessary to determine the scope of
16 the breach and restore the reasonable integrity of the data system.

17 (2) Any person or business that maintains computerized data that
18 includes personal information that the person or business does not own
19 shall notify the owner or licensee of the information of any breach of
20 the security of the data immediately following discovery, if the
21 personal information was, or is reasonably believed to have been,
22 acquired by an unauthorized person.

23 (3) The notification required by this section may be delayed if a
24 law enforcement agency determines that the notification will impede a
25 criminal investigation. The notification required by this section
26 shall be made after the law enforcement agency determines that it will
27 not compromise the investigation.

28 ~~(4) ((For purposes of this section, "breach of the security of the~~
29 ~~system" means unauthorized acquisition of computerized data that~~
30 ~~compromises the security, confidentiality, or integrity of personal~~
31 ~~information maintained by the person or business. Good faith~~
32 ~~acquisition of personal information by an employee or agent of the~~
33 ~~person or business for the purposes of the person or business is not a~~
34 ~~breach of the security of the system when the personal information is~~
35 ~~not used or subject to further unauthorized disclosure.~~

36 ~~(5) For purposes of this section, "personal information" means an~~

1 ~~individual's first name or first initial and last name in combination~~
2 ~~with any one or more of the following data elements, when either the~~
3 ~~name or the data elements are not encrypted:~~

4 ~~(a) Social security number;~~

5 ~~(b) Driver's license number or Washington identification card~~
6 ~~number; or~~

7 ~~(c) Account number or credit or debit card number, in combination~~
8 ~~with any required security code, access code, or password that would~~
9 ~~permit access to an individual's financial account.~~

10 ~~(6) For purposes of this section, "personal information" does not~~
11 ~~include publicly available information that is lawfully made available~~
12 ~~to the general public from federal, state, or local government records.~~

13 ~~(7))~~ For purposes of this section and except under subsection
14 ~~((8))~~ (5) of this section, "notice" may be provided by one of the
15 following methods:

16 (a) Written notice;

17 (b) Electronic notice, if the notice provided is consistent with
18 the provisions regarding electronic records and signatures set forth in
19 15 U.S.C. Sec. 7001; or

20 (c) Substitute notice, if the person or business demonstrates that
21 the cost of providing notice would exceed two hundred fifty thousand
22 dollars, or that the affected class of subject persons to be notified
23 exceeds five hundred thousand, or the person or business does not have
24 sufficient contact information. Substitute notice shall consist of all
25 of the following:

26 (i) E-mail notice when the person or business has an e-mail address
27 for the subject persons;

28 (ii) Conspicuous posting of the notice on the web site page of the
29 person or business, if the person or business maintains one; and

30 (iii) Notification to major statewide media.

31 ~~((8))~~ (5) A person or business that maintains its own
32 notification procedures as part of an information security policy for
33 the treatment of personal information and is otherwise consistent with
34 the timing requirements of this section is in compliance with the
35 notification requirements of this section if the person or business
36 notifies subject persons in accordance with its policies in the event
37 of a breach of security of the system.

1 (~~(9)~~) (6) Any waiver of the provisions of this section is
2 contrary to public policy, and is void and unenforceable.

3 (~~(10)~~) (7)(a) Any customer injured by a violation of this section
4 may institute a civil action to recover damages.

5 (b) Any business that violates, proposes to violate, or has
6 violated this section may be enjoined.

7 (c) The rights and remedies available under this section are
8 cumulative to each other and to any other rights and remedies available
9 under law.

10 (d) A person or business under this section shall not be required
11 to disclose a technical breach of the security system that does not
12 seem reasonably likely to subject customers to a risk of criminal
13 activity.

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