1 AN ACT

2 relating to the privacy of personal identifying information and the

3 creation of the Texas Privacy Protection Advisory Council.

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

5 SECTION 1.   Section 521.053, Business & Commerce Code, is

6 amended by amending Subsection (b) and adding Subsection (i) to

7 read as follows:

8 (b) A person who conducts business in this state and owns or

9 licenses computerized data that includes sensitive personal

10 information shall disclose any breach of system security, after

11 discovering or receiving notification of the breach, to any

12 individual whose sensitive personal information was, or is

13 reasonably believed to have been, acquired by an unauthorized

14 person. The disclosure shall be made without unreasonable delay and

15 in each case not later than the 60th day after the date on which the

16 person determines that the breach occurred [as quickly as

17 possible], except as provided by Subsection (d) or as necessary to

18 determine the scope of the breach and restore the reasonable

19 integrity of the data system.

20 (i) A person who is required to disclose or provide

21 notification of a breach of system security under this section

22 shall notify the attorney general of that breach not later than the

23 60th day after the date on which the person determines that the

24 breach occurred if the breach involves at least 250 residents of

1 this state. The notification under this subsection must include:

2   (1) a detailed description of the nature and

3 circumstances of the breach or the use of sensitive personal

4 information acquired as a result of the breach;

5   (2) the number of residents of this state affected by

6 the breach at the time of notification;

7   (3) the measures taken by the person regarding the

8 breach;

9   (4) any measures the person intends to take regarding

10 the breach after the notification under this subsection; and

11   (5) information regarding whether law enforcement is

12 engaged in investigating the breach.

13   SECTION 2. (a) In this section, "council" means the Texas

14 Privacy Protection Advisory Council created under this section.

15   (b) The Texas Privacy Protection Advisory Council is

16 created to study data privacy laws in this state, other states, and

17 relevant foreign jurisdictions.

18   (c) The council is composed of members who are residents of

19 this state and appointed as follows:

20   (1) five members appointed by the speaker of the house

21 of representatives, two of whom must be representatives of an

22 industry listed under Subsection (d) of this section and three of

23 whom must be members of the house of representatives;

24   (2) five members appointed by the lieutenant governor,

25 two of whom must be representatives of an industry listed under

26 Subsection (d) of this section and three of whom must be senators;

27 and

1   (3) five members appointed by the governor, three of

2 whom must be representatives of an industry listed under Subsection

3 (d) of this section and two of whom must be either:

4   (A) a representative of a nonprofit organization

5 that studies or evaluates data privacy laws from the perspective of

6 individuals whose information is collected or processed by

7 businesses; or

8   (B) a professor who teaches at a law school in

9 this state or other institution of higher education, as defined by

10 Section 61.003, Education Code, and whose books or scholarly

11 articles on the topic of data privacy have been published.

12   (d) For purposes of making appointments of members who

13 represent industries under Subsection (c) of this section, the

14 speaker of the house of representatives, lieutenant governor, and

15 governor shall appoint members from among the following industries

16 and must coordinate their appointments to avoid overlap in

17 representation of the industries:

18   (1) medical profession;

19   (2) technology;

20   (3) Internet;

21   (4) retail and electronic transactions;

22   (5) consumer banking;

23   (6) telecommunications;

24   (7) consumer data analytics;

25   (8) advertising;

26   (9) Internet service providers;

27   (10) social media platforms;

1   (11) cloud data storage;

2   (12) virtual private networks; or

3   (13) retail electric.

4   (e) The speaker of the house of representatives and the
5   lieutenant governor shall each designate a co-chair from among
6   their respective appointments to the council who are members of the
7   legislature.

8   (f) The council shall convene on a regular basis at the
9   joint call of the co-chairs.

10   (g) The council shall:

11   (1) study and evaluate the laws in this state, other
12   states, and relevant foreign jurisdictions that govern the privacy
13   and protection of information that alone or in conjunction with
14   other information identifies or is linked or reasonably linkable to
15   a specific individual, technological device, or household; and

16   (2) make recommendations to the members of the
17   legislature on specific statutory changes regarding the privacy and
18   protection of that information, including changes to Chapter 521,
19   Business & Commerce Code, as amended by this Act, or to the Penal
20   Code, that appear necessary from the results of the council's study
21   under this section.

22   (h) Not later than September 1, 2020, the council shall
23   report the council's findings and recommendations to the members of
24   the legislature.

25   (i) The Department of Information Resources shall provide
26   administrative support to the council.

27   (j) Not later than the 60th day after the effective date of

1 this Act, the speaker of the house of representatives, the

2 lieutenant governor, and the governor shall appoint the members of

3 the council.

4   (k) The council is abolished and this section expires

5 December 31, 2020.

6   SECTION 3. (a) Except as provided by Subsection (b) of this

7 section, this Act takes effect September 1, 2019.

8   (b) Section 521.053, Business & Commerce Code, as amended by

9 this Act, takes effect January 1, 2020.

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President of the Senate   Speaker of the House

I certify that H.B. No. 4390 was passed by the House on May 7, 2019, by the following vote: Yeas 140, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4390 on May 24, 2019, by the following vote: Yeas 138, Nays 3, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 4390 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: _____

Date

_____

Governor