86R28657 TSR-F

By:  Capriglione, Martinez Fischer, Rodriguez, H.B. No. 4390

     Collier

Substitute the following for H.B. No. 4390:

By:  Darby C.S.H.B. No. 4390

A BILL TO BE ENTITLED

AN ACT

relating to the privacy of personal identifying information and the creation of the Texas Privacy Protection Advisory Council.

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

SECTION 1.  Section 521.053, Business & Commerce Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b)  A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made without unreasonable delay and in each case not later than the 60th day after the date on which the person determines that the breach occurred [~~as quickly as possible~~], except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(i)  A person who is required to disclose or provide notification of a breach of system security under this section shall notify the attorney general of that breach if the breach involves at least 250 residents of this state. The notification under this subsection must include:

(1)  a detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;

(2)  the number of residents of this state affected by the breach at the time of notification;

(3)  the measures taken by the person regarding the breach;

(4)  any measures the person intends to take regarding the breach after the notification under this subsection; and

(5)  information regarding whether law enforcement is engaged in investigating the breach.

SECTION 2.  (a) In this section, "council" means the Texas Privacy Protection Advisory Council created under this section.

(b)  The Texas Privacy Protection Advisory Council is created to study data privacy laws in this state, other states, and relevant foreign jurisdictions.

(c)  The council is composed of:

(1)  five members of the house of representatives appointed by the speaker of the house of representatives;

(2)  five senators appointed by the lieutenant governor; and

(3)  five members of industry who are residents of this state appointed by the governor as follows:

(A)  one member representing the retail and electronic transaction industry;

(B)  one member representing the telecommunications industry;

(C)  one member representing the consumer data analytics industry;

(D)  one member representing the advertising industry; and

(E)  one member representing the Internet service provider industry.

(d)  The speaker of the house of representatives and the lieutenant governor shall each designate a co-chair from among their respective appointments to the council.

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

(f)  The council shall:

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

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

(g)  Not later than December 1, 2020, the council shall report the council's findings and recommendations to the members of the legislature.

(h)  Not later than the 60th day after the effective date of this Act, the speaker of the house of representatives, the lieutenant governor, and the governor shall appoint the members of the council.

(i)  The council is abolished and this section expires December 31, 2020.

SECTION 3.  This Act takes effect September 1, 2019.