

By: Capriglione, Martinez Fischer, Rodriguez,
Collier

H.B. No. 4390

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

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

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

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

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

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

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

17 (c) The council is composed of:

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

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

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

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

26 (B) one member representing the
27 telecommunications industry;

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

3 (D) one member representing the advertising
4 industry; and

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

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

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

12 (f) The council shall:

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

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

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

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

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