
DIGEST

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HB 888 Original

2018 Regular Session

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Abstract: Creates the Internet and Social Media Data Protection Act.

Proposed law provides that the intent of the legislature is to require a data collector identified and described in proposed law, that maintains records containing covered personal information of a resident of this state, to implement and maintain reasonable security measures, and to provide certain notice regarding such records.

Proposed law defines "consumer", "covered personal information", "online service", "operator", "social media website" and "social networking website", "social media company", "social media marketing", "use", and "user".

Proposed law requires an operator or social media company to make available, in a manner reasonably calculated to be accessible by consumers or users whose covered personal information the operator or social media company collects through its internet website, online service, social media website, or social networking website (hereinafter referenced as "internet or social media service"), a notice to the consumer or user that does each of the following:

- (1) Identifies the categories of covered personal information the operator or social media company collects through its internet or social media service about consumers or users who use or visit the internet or social media service, and the categories of third parties with whom the operator or social media company may share such covered personal information.
- (2) Provides a description of the process, if any such process exists, for an individual consumer or user who uses or visits the internet or social media service to review and request changes to any of the individual's covered personal information that is collected through the internet or social media service.
- (3) Describes the process by which the operator or social media company notifies consumers or users who use or visit the internet or social media service of material changes to the notice required to be made available.
- (4) Discloses whether a third party may collect covered personal information about an individual consumer's or user's online activities over time and across different internet or social media services when the consumer or user uses the internet or social media service of the operator or social media company.

(5) States the effective date of the notice.

Proposed law authorizes an operator or social media company to remedy any failure to provide notice within 30 days of the date of being informed of such failure.

Proposed law provides that an operator or social media company is in violation of proposed law when such operator or social media company does either of the following:

(1) Knowingly and willfully fails to remedy a failure to comply with the provisions of proposed law within 30 days from the date of being informed of such failure.

(2) Makes available a notice containing information which constitutes a knowing and material misrepresentation or omission that is likely to mislead a consumer or user acting reasonably under the circumstances, to the detriment of the consumer or user.

Proposed law provides for the attorney general to enforce the provisions of proposed law. Provides if the attorney general has reason to believe that an operator or social media company, either directly or indirectly, has violated the provisions of proposed law, he may institute an appropriate legal proceeding against such operator or social media company to do any of the following:

(1) Issue a temporary or permanent injunction.

(2) Impose a civil penalty not to exceed \$5,000 for each violation.

Proposed law provides for the action to be filed in the district court of the parish in which the violation occurs, upon a showing that the operator or social media company either directly or indirectly violated or is violating proposed law.

The provisions of proposed law do not establish a private right of action for a consumer or user against an operator or social media company.

Proposed law provides that the remedies in proposed law are not exclusive and are in addition to any other remedies provided by law

(Adds R.S. 45:1621-1626)