

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB835

Chairperson: Senator Les Seiler

Committee: Judiciary

Date of Hearing: January 28, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

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LB 835 strengthens consumer protection by changing provisions to the following statutes: Credit Report Protection Act; Consumer Protection Act; Uniform Deceptive Trade Practices Act; and Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006.

- Credit Report Protection Act
 - Adds a requirement for consumer reporting agencies to create a file for a minor if the minor does not have a pre-existing credit file when requesting a security freeze. A consumer-reporting agency would no longer be able to deny freezing a minor's credit file when no credit file exists.
- Consumer Protection Act
 - Permits the Nebraska Attorney General's Office to share documentary material obtained through a Civil Investigative Demand (type of investigative subpoena) with other law enforcement agencies that are charged with enforcement of consumer protection statutes.
 - Increases the maximum civil penalty that a judge may award for antitrust violations, such as agreements in restraint of trade and monopolization. The current maximum civil penalty of \$25,000 would be increased to \$500,000 to account for inflation since the statute's original enactment and to maintain its effectiveness as a deterrent.
- Uniform Deceptive Trade Practices Act
 - Adds two enumerated deceptive trade practices within the act: (1) A deceptive trade practice occurs in instances where a person represents that goods do not contain ingredients or characteristics that the goods actually contain; and (2) A deceptive trade practice occurs when a person employs any deception or fraud while soliciting funds or assets for a charitable purpose.
- Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006
 - Adds a requirement that a breached entity, which compromised consumers' personal information, notify the Nebraska Attorney General when notice is required to any Nebraskan.
 - Broadens the definition of "personal information" to include an email address or user name in combination with a password or security question.
 - Requires an entity to notify consumers if personal information is acquired by an unauthorized party. Currently, the entity will only notify consumers if the personal information is acquired by an unauthorized party and the breached entity makes a determination that the compromised information has been used or is reasonably likely to be used for an unauthorized purpose.
 - Adds a notification for breach of paper records, in addition to electronic records.

- Modifies the definition of “encrypted” to indicate that if the key or confidential process to the encryption method is also subject to the breach, the personal information will not be considered encrypted and notification will be required.

Principal Introducer: _____

Senator Heath Mello