

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: S. 269 Name of Bill: Commerce and trade; data security breach

Agency/Dept: Public Safety Author of Bill Review: Paco Aumand

Date of Bill Review: March 14, 2014 Status of Bill: (check one):

Upon Introduction As passed by 1st body As passed by both bodies

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in # 8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill makes clean up or clarification language to existing law except for section 2434 which places notification responsibility on law enforcement agencies.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Vermont Office of the Attorney General or the Vermont Department of Financial Regulation and shall include the website and phone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

2. Is there a need for this bill? *Please explain why or why not.*

A small business owner who testified in the Senate believes that he was wrongly fined because by the Attorney General's office (AG) because he was not aware of his duty to report the breach of his database to the AG's office. Apparently this alleged breach was investigated by the Williston PD and the business owner feels he should have been notified in writing of his responsibilities.

It is questionable whether this is needed. However, this language was a result of a compromise.

The language contained in this passed bill is part of a compromise of which DPS was part of the compromise discussion. It places responsibility on a law enforcement agency only when they are involved with a potential breach.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

Limited. This may cause Vermont law enforcement agencies not to take complaints concerning data breaches. It is our understanding that the Attorney General's Office would produce written handout information that Law enforcement could use to give to businesses.

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4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

The Attorney General's Office will have to produce the written handout material and they are supportive of this bill.

Law enforcement may not be supportive of this requirement but it should be noted that Ed Miller, lobbyist for the Vermont Police Association, was part of the compromise language discussion.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

See above

6. Other Stakeholders:

- 6.1 Who else is likely to support the proposal and why?

Small business owners

- 6.2 Who else is likely to oppose the proposal and why?

Other than law enforcement no one.

7. Rationale for recommendation: *Justify recommendation stated above.*

While this bill creates a requirement for law enforcement that does not exist in other laws or other police operations it does provide an education opportunity for small businesses. If a police department receives a complaint of a breach the handing of a written notice could be a proactive step in their investigative process and their proper response to a complainants concern.

However, because law enforcement may not embrace this added task and it sets a precedence with regard to telling law enforcement how to handle complaints DPS is taking a neutral position.

DPS also worked on this compromise and provided alternative language to the original bill.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

N/A

Secretary/Commissioner has reviewed this document

Date:

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