

MARYLAND RETAILERS ASSOCIATION

The Voice of Retailing in Maryland



HB 237

Commercial Law - Personal Information Protection Act – Revisions

Economic Matters Committee

OPPOSE

HB 237 re data security amendments has numerous issues we would like to draw the committee's attention to.

In Section 7 regarding activity – tracking data: this section is too broad. It should apply only to when a business is tracking data by following wherever a shopper visits across the web. Currently this definition would also include what we track on our own website, which should be our data.

(1) Under “personal information,” there are some additions that would set a new precedent for what is, or is not, “personal information”.

a. Page 3, line 5 – there is no language in the country that states, “*data collected through an app or electronic device capable of tracking individual activity, behavior, or location; and any information derived from this data*” as part of a “personal information” definition within a breach notification law.

b. Page 3, line 24 – has the same issue and states “*(IV) nonpublic social media information about an individual, including communications, postings, pictures, videos, connections between individuals, connections between accounts, and actions.*” This is also found no where else in the country as part of a “personal information” definition.

In section 14-3504(b)(3), we are fine with 30 days if the deleted language “concludes the investigation...” is restored. From date of discovery of the breach is not workable. If it is date of discovery, then we need at least 45 days.

14-3504(f) was previously about substitute notice and now requires additional notices. We are unclear if that the intent as the section was meant to address substitute notice.

(3) Regarding Attorney General Notice – On page 7, line 19 – The requirement to provide notice to the AG *prior* to giving notice to impacted consumers does not make sense. We believe the goal should be investigating the security incident and determining who is impacted. We shouldn't be taking valuable time/resources to prepare a separate notice to the Attorney General, especially before we give notice to consumers. We would ask what the point of giving prior notice to the Attorney General would accomplish. At the very least, the requirement should be to provide notice *contemporaneously* with notice to consumers.

We thank the committee for their time and look forward to working with you all on this legislation. For the above reasons, we remain in opposition to this legislation.