

March 20, 2019

Senator Reuven Carlyle
Chair
WA Senate Environment, Energy and Technology Committee
422 J.A. Cherberg Bldg.
P.O. Box 40466
Olympia, WA 98504

Re: House Bill No. 1071 (Data Breach)

Dear Chairman Carlyle:

The Electronic Transactions Association (“ETA”) opposes the HB 1071 because it represents an additional hurdle in building a national uniform data breach notification framework. If enacted, HB 1071 would increase costs to small businesses that are victims of data breaches. ETA and its members are dedicated to working with federal and state regulators to address the important and growing issue of data security and data breach notification. ETA agrees that delivery of proper notification to affected individuals when data is compromised is vitally important for both businesses and consumers. However, this bill, as written, provides for a private right of action against businesses and therefore is not the best vehicle in which to address data breach notification.

ETA is the leading trade association for the payments industry, representing more than 500 companies worldwide involved in electronic transaction processing products and services. The purpose of ETA is to influence, monitor, and shape the payments industry by providing leadership through education, advocacy, and the exchange of information. ETA’s membership spans the breadth of the payments industry, and includes financial institutions, payment processors, independent sales organizations, and equipment suppliers. ETA’s members use data to provide a wide range of products and services designed to enhance and secure electronic transfers. Our members rely on data to help reduce fraud and to authenticate transactions to make transactions between businesses and consumers seamless and secure.

ETA Supports a National Uniform Data Breach Notification Standard

Consumers and businesses are best served when they have a common and consistent expectation of breach procedures, and company time and resources can be devoted to innovative security solutions to protect against new threats. However, to build the most meaningful and effective data breach solution, it is imperative to tackle this issue with a clear federal standard rather than a patchwork of state laws. Currently, disparate laws in 50 states plus District of Columbia, Guam, Puerto Rico, and the Virgin Islands, frustrate efficient and uniform breach notification to consumers. This bill would provide requirements that significantly deviate from the general requirements in other states on this issue and placing Washington State as an outlier regarding data breach notification.

SPECIFIC COMMENTS

ETA opposes this bill for the reasons raised above, but we also have the following specific concerns regarding individual sections of the bill.

Private Right of Action

This bill provides for a private right of action for damages against a business which is a victim of a data breach. ETA opposes creating a new private right of action for data breaches. Allowing for consumers to sue companies that are victims of data breaches would at a minimum significantly increase risk for small businesses in Washington State, and at worse, create a bet the company issue for data breaches. Additionally, adding a private right of action would create additional challenges for companies operating in 50 state as Washington State would become more of an outlier on this issue.

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ETA thanks you for the opportunity to submit comments on this important issue. If you have any additional comments, please contact me or ETA Senior Vice President of Government Affairs, Scott Talbott at Stalbott@electran.org.

Respectfully submitted,



PJ Hoffman
Director of Regulatory Affairs
Electronic Transactions Association
PJHoffman@electran.org
(202) 677-7417

Cc: Representative Shelley Kloba
Members of the Senate Environment, Energy and Technology Committee