

Senate proposal of amendment to House proposal of amendment

S. 72

An act relating to requiring telemarketers to provide accurate caller identification information

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out Sec. 2 and the accompanying reader assistance (data brokers) in their entirety and by inserting in lieu thereof a new Sec. 2 and reader assistance to read as follows:

* * * AG Recommendations; Data Brokers; Privacy Rules for Internet Service Providers and Edge Providers * * *

Sec. 2. ATTORNEY GENERAL; CONSUMER PROTECTION; RECOMMENDATIONS; DATA BROKERS; INTERNET SERVICE PROVIDERS AND EDGE PROVIDERS

(a)(1) Data broker findings. The General Assembly finds that:

(A) The data broker industry brings benefits to society by:

(i) providing data necessary for the operation of both the public and private sectors;

(ii) supporting the critical flow of information for interstate and intrastate commerce; and

(iii) aiding in securing and protecting consumer identities.

(B) Despite these benefits, concerns have arisen about the data broker industry, including:

(i) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(ii) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(iii) whether appropriate safeguards are in place to ensure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(iv) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(2) Data broker recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce

and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(A) an appropriate definition of the term “data broker”;

(B) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(C) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(D) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

(b)(1) Telecommunications privacy rule recommendation. On or before December 15, 2018, the Attorney General, in consultation with the Commissioner of Public Service, and in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the Senate Committees on Finance and on Economic Development, Housing and General Affairs and the House Committees on Commerce and Economic Development and on Energy and Technology reflecting whether and to what extent the State should adopt privacy and data security rules applicable to telecommunications service providers subject to the jurisdiction of the Public Service Board under 30 V.S.A. § 203(5), including

(A) broadband Internet access service providers; and

(B) to the extent permitted by federal law, “edge providers,” which shall include any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

(2) In making the recommendation, the Attorney General shall consider the following:

(A) Whether any proposed rules should be modeled after the Federal Communications Commission’s 2016 Privacy Order, WC Docket No. 16-106, FCC 16-148, adopted October 27, 2016 and released November 2, 2016.

(B) Whether any rules should include:

(i) disclosure requirements pertaining to a provider’s privacy policies;

(ii) opt-in or opt-out procedures for obtaining customer approval to use and share sensitive or nonsensitive customer proprietary information, respectively; and

(iii) data security and data breach notification requirements.

(C) Proposed courses of action that balance the benefits to society that the telecommunications industry brings with actual and potential harms the industry may pose to consumers.

(D) Such other factors and considerations the Attorney General deems relevant to making recommendations pursuant to this section.

(3) Working group coordination. The Attorney General in consultation with the Commissioner of Public Service, at their discretion, may consult with or otherwise incorporate this review into the working group process established in subsection (a) of this section.