

H764 Data Broker Bill: Comments for Senate Committee 3/22/18  
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### **Protecting Consumers' Information and Regulating Data Brokers?**

The House passed a bill that enables consumers to place AND lift security freezes with credit reporting agencies for FREE. The bill makes it illegal to hack/steal personally identifiable information or to use that information to commit unlawful acts (like stalking). Data brokers would have to register with the Secretary of State, provide information about their opt-out processes and the credentialing of buyers of personal information. They will have to report annually on the breaches of personal information they experienced and the number of Vermonters exposed. "Data collectors" are already required to issue notices to the Attorney General and affected consumers of any breaches of "personally identifiable information," meaning a first and last name and a combination of social security number, driver's license, address or other information. "Data brokers" have to follow the same protocol.

*Although most of the provisions in this bill are useful, I don't think that the new registration and reporting requirements for data brokers make sense. I don't think that it will really protect Vermonters from identity theft and other hazards of our cyber insecurity and I think that there are problems with enforcement and problems with constitutional and statutory conflicts.*

*The criminals who are causing the problems will not register or report, and will not be any easier to catch. Some of the most serious breaches of which we are aware were from businesses with relationships with consumers who failed to protect their personally identifiable information (Equifax, now Facebook). Trying to regulate businesses who collect and market currently available public personal information will not do anything to protect consumers from these hazards. And it seems odd to require additional registration and reporting of companies who are using personal information that the state itself makes public, rather than focusing on the use of personally identifiable information that is what is truly hazardous to us. And trying to regulate companies who do not operate in Vermont just because they may have some Vermonters information seems like an overreach. I believe that the additional security is illusory and that*

*Therefore in my unsuccessful amendment in the House I scaled back the new regulation to several questions on the existing corporate registration procedure. I see no point in imposing a new fee on companies that are not likely to be the source of the problem, or who are out of state and beyond the reach of our enforcement, when there may be issues with the first amendment and the commerce clause. My amendment retained all of the security freeze and protection of information provisions, changing only the registration and reporting procedure.*

*I think we should be able to have more control of our information and in fact be paid a royalty by the companies that make money with it. Our information has value only because it is attached to us – we should be better compensated for the use of our data by profitable corporations. Developing individual rights to control the use of our data more effectively and seeking ways in which we might receive revenue from the use of our own data are issues that the Legislature should be working on, not futile attempts to regulate malefactors that will only create problems for companies that in some cases are using data that the state itself makes available. The illusion of more protection helps no one.*