

Section-by-Section Summary of H.764
“An act relating to data brokers and consumer protection”

As introduced/passed by House Commerce and Economic Development

H.764 – “An act relating to data brokers and consumer protection” – proposes to adopt consumer protection provisions relating to data brokers, data security, and consumer privacy.

Sec. 1. Findings and Intent

Sec. 1 of the bill includes findings and intent language on the four major components of the bill:

- (1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out.
- (2) Ensuring that data brokers have adequate security standards.
- (3) Prohibiting the acquisition of personal information through fraudulent means or with the intent to commit wrongful acts.
- (4) Removing financial barriers to protect consumer credit information.

Sec. 2. Amendments to 9 V.S.A. Chapter 62: Protection of Personal Information

Sec. 2 of the bill amends current law and adds new law within 9 V.S.A. Chapter 62, which includes general provisions, the Security Breach Notice Act, the Social Security Number Protection Act, and the Document Safe Destruction Act.

9 V.S.A. § 2430 – Definitions

In addition to clarifying certain definitions in current law, the bill adds three new defined terms used in the chapter: “data broker,” “data broker security breach,” and “personal information.”

9 V.S.A. § 2433 – Acquisition of Personal Information; Prohibitions

The bill adds section 2433, which prohibits a person from (1) acquiring personal information through fraudulent means; or (2) acquiring or using personal information for the purpose of wrongful conduct, including stalking, fraud, and discrimination. A person who violates this section commits a civil violation, enforceable pursuant to the provisions of the Consumer Protection Act in 9 V.S.A. § 2435 et seq.

9 V.S.A. § 2435 – Security Breach Notice Act

The bill makes certain stylistic and conforming changes throughout this section, including two changes to more clearly reflect current the AG’s current practices: (1) clarifying that the 45-day deadline for providing consumers with notice of a security breach is treated as a the maximum time for a data collector to conduct its internal

investigation and notify consumers; and (2) clarifying that supplemental materials a data collector supplies to the AG after a breach shall not be disclosed except to regulators or law enforcement.

9 V.S.A. 2440; 2445 – the bill makes clarifying changes to the SSN Protection Act and the Document Safe Destruction Act to avoid conflict with the new definition of “personal information.”

9 V.S.A. chapter 62, subchapter 5 – Data Brokers

§ 2446 – Annual Registration

This section creates a new registration requirement for a business that meets the definition of “data broker,” and specifically requires:

(a)(1) registration with the Secretary of State on or before January 31 following any year the business is a “data broker”

(2) a registration fee of \$100.00

(3) disclosure of information:

(A) concerning the data broker’s data collection practices

(B) whether/how a consumer can opt out of data collection, databases, or sales

(C) practices with no opt out

(D) whether the data broker implements a purchaser credentialing process

(E) the number of data broker security breaches experienced

(F) information concerning minors

(G) any additional information it wishes to provide.

(b) A data broker that fails to register is subject to civil penalty and AG enforcement.

§ 2447 – Data Broker Duty to Protection Personal Information

This section requires a data broker to implement an information security program that has sufficient administrative, technical, and physical safeguards to protection consumer’s personal information. This section is based upon the Massachusetts data security regulation 201 CMR 17.00: Standards for the Protection of Personal Information.

Secs. 3-4 – Removing Fees for Placing or Removing a Credit Security Freeze

These sections amend 9 V.S.A. § 2480b and 2480h to eliminate any fees for placing, lifting temporarily, or removing a security freeze on a consumer’s credit file with a credit reporting agency. Currently an agency is authorized to charge up to \$10.00 to place, and \$5.00 to remove, a security freeze.

Sec. 5 – Reports – from AG/DFR concerning implementation of the act

Sec. 6 – Effective Dates

(a) Passage – findings/intent; credit freeze fees; and reports

(b) July 1, 2018 – amendments to 9 V.S.A. chapter 62, except information security program requirement (January 1, 2019)