



House of Representatives

File No. 790

General Assembly

January Session, 2001

(Reprint of File No. 216)

Substitute House Bill No. 6619
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 18, 2001

AN ACT CONCERNING CONSUMER FINANCIAL INFORMATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 42-371 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) As used in this section:

4 (1) "Retailer" means any person who sells goods used primarily for
5 personal, family or household purposes to a person who is not in the
6 business of reselling such goods;

7 [(2) "Discount card or device" means any card or device issued by a
8 retailer to a consumer, that the consumer may use to obtain a discount
9 when making purchases from the retailer, including, but not limited to,
10 a scanner card;]

11 [(3)] (2) "Consumer" means an individual who is an actual or
12 prospective purchaser of goods used primarily for personal, family or
13 household purposes; and

14 [(4)] (3) "Consumer information" means information that identifies a
15 consumer and that is obtained by a retailer [from the consumer's use of
16 a discount card or device issued by the retailer] in the course of the
17 retailer's business.

18 (b) No retailer [who issues, or has issued, a discount card or device
19 in this state to a consumer] may sell, lease or relinquish to, or exchange
20 for value with, any other person, firm or corporation any consumer
21 information, unless (1) the retailer provides reasonable prior written
22 notice to the consumer, (2) the retailer provides the consumer with the
23 option [, at the time the consumer applies for the discount card or
24 device or at the time the consumer receives an unsolicited discount
25 card or device,] of preventing the retailer from selling, leasing, [or]
26 relinquishing or exchanging for value such information, and (3) the
27 consumer does not exercise such option to prevent the retailer from
28 selling, leasing, [or] relinquishing or exchanging for value such
29 information.

30 (c) Such notice shall (1) state that information identifying the
31 consumer may be sold, leased or relinquished to, or exchanged for
32 value with, other persons, firms or corporations, (2) describe the
33 purposes for which such information would be used, and (3) include a
34 form the consumer may use to prevent the retailer from selling,
35 leasing, [or] relinquishing or exchanging for value such information.

36 (d) Nothing in this section shall be construed to supersede the
37 federal Fair Credit Reporting Act (15 USC 1681 et seq.).

38 (e) The provisions of this section do not apply to the sale, lease or
39 relinquishing of consumer information by a retailer to another person,
40 firm or corporation that directly or through one or more
41 intermediaries, controls, or is controlled by, or is under common
42 control with, such retailer.

43 (f) Notwithstanding the provisions of subsection (b) of this section, a
44 retailer may relinquish consumer information to (1) a credit rating
45 agency, as defined in section 36a-695, or a consumer reporting agency,

46 as defined in 15 USC 1681 et seq., provided such information may be
47 relinquished only if the discount card or device also functions as a
48 credit card, as defined in section 53a-128a, (2) a person, firm or
49 corporation performing or providing services used for the delivery of
50 such retailer's promotional offers, or (3) a person, firm or corporation
51 performing or providing services used for the delivery of such
52 retailer's billing statements.

53 (g) Any violation of any provision of this section shall be deemed an
54 unfair or deceptive trade practice under subsection (a) of section 42-
55 110b.

56 (h) The provisions of this section shall not apply to the provision of
57 consumer information by a retailer (1) to a financial institution as
58 defined in the Gramm-Leach-Bliley Financial Modernization Act of
59 1999, 15 USC 6801 et seq., if such information is subject to the
60 provisions of said Act, or (2) to any entity if such information is used
61 by such entity only for administering a program on behalf of the
62 retailer.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department of Consumer Protection

Municipal Impact: None

Explanation

State Impact:

The bill as amended expands existing consumer protections against the dissemination of certain consumer information, and makes them subject to the Connecticut Unfair Trade Practices Act. Under the Unfair Trade Practices Act, the Department of Consumer Protection (DCP) has two methods for resolving complaints, 1) formal administrative hearings; or 2) forwarding the complaint to the Attorney General's office for litigation. If most of the cases are handled administratively by DCP, the workload increase to the Office of the Attorney General is expected to be minimal and can be handled within the agency's anticipated budgetary resources. Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, the extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amount of the penalties that are imposed. There would be a minimal workload increase for the DCP associated with increased consumer inquiries and complaints and the possible hearings as a result of this bill as amended. This, along with other minimal cost bills, could cause the Department of Consumer Protection to go beyond the anticipated

budgetary resources of the agency.

House "A" makes a variety of changes which results in no fiscal impact.

OLR Amended Bill Analysis

sHB 6619 (as amended by House "A")*

AN ACT CONCERNING CONSUMER FINANCIAL INFORMATION.**SUMMARY:**

This bill expands the situations in which a retailer must get a consumer's consent to disclose information about the consumer. Current law requires retailers to obtain a consumer's consent before selling, leasing or relinquishing information about the consumer if they obtain it through the consumer's use of a discount card or device they issued. This bill requires all retailers, regardless of whether they issued a discount card or device, to get that consent no matter how in the course of business they obtained the information. It also requires retailers to obtain consent before they can trade the information.

The bill exempts retailers from the consent requirement when they disclose information to: (1) banks, security brokerages and insurance companies affiliated with federally authorized financial holding companies, as required by the Gramm-Leach-Bliley Financial Modernization Act of 1999, if the information is personal information that can be disclosed under federal law, (15 USC 6809 (3)(A)) or (2) any entity that uses the information only to administer a program on the retailer's behalf.

*House Amendment "A" restores exemptions that the original bill eliminated for retailers that release consumer information:

1. between and among parent and subsidiary companies;
2. to credit rating or consumer reporting agencies in cases where a discount card is used as a credit card; and
3. for the purposes of the retailer's own promotional offers or billing statements.

It also restores requirements that the retailer obtain the consumer's consent (1) with respect to information obtained in the course of his

business, and (2) when “relinquishing” information. It adds the exemptions concerning financial institutions and entities administering programs on a retailer’s behalf.

EFFECTIVE DATE: October 1, 2001

DISCOUNT CARD OR DEVICE

Under current law, retailers must give notice when disclosing information obtained from a consumer’s use of a discount card, a scanner card, or other device they issue that allows a consumer to obtain a discount when making a purchase. The bill applies the requirement to any information retailers obtain from the consumer, regardless of the method or source.

BACKGROUND

Consent Notice

The law prohibits retailers from selling, relinquishing or leasing consumer information without giving the consumer reasonable prior written notice and an opportunity to prevent the disclosure. The written notice must (1) state that information identifying the consumer may be sold, traded, or leased to other persons, firms or corporations; (2) describe the purpose for which the information will be used; and (3) include a form the consumer may use to prevent the release of the information.

Gramm-Leach-Bliley Act

The Gramm-Leach-Bliley Act eliminates long-standing barriers to cross-ownership and affiliation among banks, security brokerages, and insurance companies. Title V of the act contains privacy protections for consumers when companies share consumer information. It requires banks to develop written privacy policies, disclose them to consumers, and give consumers the right to opt out of information sharing with nonaffiliated third parties. The act does not let consumers opt out of sharing information among affiliated companies. It prohibits disclosure of customer account numbers or similar access codes to nonaffiliated third parties for telemarketing or other direct marketing purposes. It requires federal regulators to establish comprehensive standards for ensuring the security and confidentiality of consumers’

personal financial information.

Legislative History

The House referred the bill (File 216) to the Judiciary Committee on April 19. The committee reported favorably on the bill on April 25.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 38 Nay 0