



Senate

General Assembly

File No. 197

February Session, 2002

Substitute Senate Bill No. 186

Senate, March 27, 2002

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CONSUMER FINANCIAL INFORMATION.

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

1 Section 1. Section 42-371 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

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
16 of 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 with any other person, firm or corporation any consumer information,
21 unless (1) the retailer provides reasonable prior written notice to the
22 consumer, (2) the retailer provides the consumer with the option [, at
23 the time the consumer applies for the discount card or device or at the
24 time the consumer receives an unsolicited discount card or device,] of
25 preventing the retailer from selling, leasing, [or] relinquishing or
26 exchanging such information, and (3) the consumer does not exercise
27 such option to prevent the retailer from selling, leasing, [or]
28 relinquishing or exchanging such information.

29 (c) Such notice shall (1) state that information identifying the
30 consumer may be sold, leased or relinquished to or exchanged with
31 other persons, firms or corporations, (2) describe the purposes for
32 which such information would be used, and (3) include a form the
33 consumer may use to prevent the retailer from selling, leasing, [or]
34 relinquishing or exchanging such information. The notice shall provide
35 the consumer with no less than sixty days from receipt of the notice to
36 exercise the consumer's option to prevent the retailer from selling,
37 leasing, relinquishing or exchanging such information.

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

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

45 retailer.

46 (f) Notwithstanding the provisions of subsection (b) of this section, a
 47 retailer may relinquish consumer information to (1) a credit rating
 48 agency, as defined in section 36a-695, or a consumer reporting agency,
 49 as defined in 15 USC 1681 et seq., provided such information may be
 50 relinquished only if the discount card or device also functions as a
 51 credit card, as defined in section 53a-128a, (2) a person, firm or
 52 corporation performing or providing services used for the delivery of
 53 such retailer's promotional offers, or (3) a person, firm or corporation
 54 performing or providing services used for the delivery of such
 55 retailer's billing statements.

56 (g) Any violation of any provision of this section shall be deemed an
 57 unfair or deceptive trade practice under subsection (a) of section 42-
 58 110b.

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

This act shall take effect as follows:	
Section 1	October 1, 2002

GL *Joint Favorable Subst.*

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:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - None	Consumer Protection, Dept., Attorney General	-	None	None
GF - Potential Revenue Gain	Consumer Protection, Dept.	-	Indeterminate	Indeterminate

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires any retailer doing business in the state of Connecticut to inform the consumer before selling, leasing, relinquishing or exchanging consumer information if such information was obtained through the use of a discount card or any device issued by the retailer. The bill also gives the consumer an opportunity to prevent such dissemination by allowing at least 60 days from the day the consumer receives the “opt-out” notice from the retailer.

Since this bill primarily applies to retailers, its passage would result in a minimal or no impact on the state.

Connecticut Unfair Trade Practices Act (CUPTA)

A violation of provisions of this bill is deemed an unfair trade practice. 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, since it would depend upon the number of violations which occurred and the amount of the penalties that would be imposed. There could 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. This, along with other minimal cost bills, could cause the Department of Consumer Protection to go beyond the anticipated budgetary resources of the agency.

OLR Bill Analysis

sSB 186

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

The bill expands the situations in which a retailer must give a consumer an opportunity to prevent disclosure of identifying information. Current law requires retailers to give a consumer an opportunity to prohibit disclosure of consumer information before the retailer sells, leases, or relinquishes it if the information was obtained through the consumer's use of a discount card or device issued by the retailer. The bill instead requires retailers to give the opportunity to prohibit disclosure before they disclose it, regardless of how the information was obtained.

A retailer gives a consumer an opportunity to prohibit disclosure by giving a notice that (1) states that identifying information will be disclosed, (2) describes the purposes for which it will be used, and (3) includes a form to prohibit disclosure. Under current law, the retailer must give the notice when the consumer applies for a card or receives an unsolicited one. Under the bill, the retailer must give the consumer at least 60 days from the day the consumer receives the notice to exercise the option of preventing disclosure.

The bill makes the consumer's prohibition apply to the exchange of consumer information in addition to its sale, lease, or relinquishment.

The bill permits the disclosure of consumer information to (1) banks, security brokerage firms, and insurance companies affiliated with federally authorized holding companies, as required by the 1999 federal Gramm-Leach-Bliley Financial Modernization Act, if the information may be disclosed under it (15 USC 6809 (3)(A)) or (2) any entity that uses the information only to administer a program on the retailer's behalf.

EFFECTIVE DATE: October 1, 2002

BACKGROUND

The Federal Gramm-Leach-Bliley Act

The Gramm-Leach-Bliley Act (P. L. 106-102) eliminates long-standing barriers to cross-ownership and affiliation among banks, security brokerage firms, 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 accounts 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.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 12 Nay 5