



Senate

General Assembly

File No. 346

January Session, 2015

Substitute Senate Bill No. 99

Senate, April 1, 2015

The Committee on General Law reported through SEN. LEONE of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NEW CAR DEALERS AND INFORMATION REGARDING THE MAGNUSON-MOSS WARRANTY ACT, THE UNAUTHORIZED ACCESS OF COMPUTER DATA, WRITTEN NOTICE FOR HOMEMAKER OR COMPANION SERVICE REGISTRIES AND BUSINESSES THAT MAKE CERTAIN UNSOLICITED AND INTENTIONALLY MISLEADING TELEPHONE CALLS TO CONSUMERS.

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

1 Section 1. (NEW) (*Effective July 1, 2015*) Each new car dealer, as
2 defined in section 14-51 of the general statutes, at the time the sale of a
3 new motor vehicle, as defined in section 14-1 of the general statutes, is
4 executed, shall deliver to the purchaser of such new motor vehicle a
5 written statement, printed in not less than ten-point boldface type, as
6 follows: "The Magnuson-Moss Warranty Act, 15 USC 2301 et seq.,
7 makes it illegal for motor vehicle manufacturers or dealers to void a
8 motor vehicle warranty or deny coverage under the motor vehicle
9 warranty simply because aftermarket or recycled parts were installed
10 or used on the vehicle or simply because someone other than the
11 dealer performed service on the vehicle."

12 Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section, (1)
13 "encrypt" means to transform electronic data into a form in which
14 meaning cannot be assigned without the use of a confidential process
15 or key, and (2) "personal information" means an individual's first name
16 or first initial and last name in combination with any one or more of
17 the following data: (A) A Social Security number; (B) a driver's license
18 number or a state identification number; (C) a home address; or (D)
19 individually identifiable health information. "Personal information"
20 does not include publicly available information that is lawfully made
21 available to the general public from federal, state or local government
22 records or widely distributed media.

23 (b) Not later than July 1, 2016, each insurer, health care center,
24 banking or financial organization, data broker that collects personal
25 information or other entity licensed to do health insurance business in
26 this state shall implement security technology that encrypts the
27 personal information of consumers, insureds and enrollees that is
28 compiled or maintained by such insurer, health care center, banking or
29 financial organization, data broker or other entity. Any such security
30 technology shall be updated as is necessary and practicable.

31 (c) Not later than seven days after receiving notice of unauthorized
32 access to personal information by a third party, an entity listed in
33 subsection (b) of this section shall notify each individual who has had
34 his or her personal information accessed by such third party, in
35 writing, of such unauthorized access of his or her personal
36 information.

37 (d) Each entity required to notify an individual of unauthorized
38 access of his or her personal information pursuant to subsection (c) of
39 this section shall provide such individual with not less than two years
40 of commercially available identity theft monitoring and protection at
41 no charge to the individual.

42 (e) The Insurance Commissioner, after consultation with the
43 Commissioner of Consumer Protection, shall adopt regulations, in
44 accordance with the provisions of chapter 54 of the general statutes, to

45 implement the provisions of this section and to establish minimum
46 standards for security technology required to be implemented
47 pursuant to subsection (b) of this section.

48 Sec. 3. Subsection (a) of section 20-679a of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2015*):

51 (a) Not later than [seven] four calendar days after the date on which
52 a registry supplies, refers or places an individual with a consumer, the
53 registry shall provide the consumer with a written notice, to be signed
54 by the consumer, specifying the legal liabilities of such registry to the
55 individual supplied or referred to or placed with the consumer. If the
56 registry maintains an Internet web site, a sample of the notice shall be
57 posted on such Internet web site.

58 Sec. 4. (NEW) (*Effective October 1, 2015*) (a) No person, as defined in
59 section 1-1 of the general statutes, shall (1) knowingly make an
60 unsolicited business telephone call to a consumer using a caller
61 identification service or device that transmits misleading or inaccurate
62 caller identification information to the recipient of the telephone call
63 with the intent to defraud or cause harm to such recipient, or (2)
64 having made such unsolicited business telephone call to a consumer,
65 fail to maintain an active consumer response telephone line for
66 consumer questions and complaints.

67 (b) Any person who violates the provisions of subsection (a) of this
68 section shall have engaged in an unfair or deceptive act or practice in
69 the conduct of trade or commerce under chapter 735a of the general
70 statutes.

71 (c) Any person having knowledge of a violation of subsection (a) of
72 this section may report all facts and information in such person's
73 possession concerning such violation to the Attorney General. The
74 Attorney General may review such facts and information and
75 investigate as he or she deems proper regarding such facts and
76 information and any other information that may be reasonably derived

77 from such report. If the Attorney General takes action against any
78 person for violating the provisions of subsection (a) of this section, the
79 person who reported such violation shall be awarded one-half of any
80 monetary fines or settlement recovered by the Attorney General from
81 the violator.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2015</i>	20-679a(a)
Sec. 4	<i>October 1, 2015</i>	New section

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill results in no fiscal impact to the state as it makes minor and technical changes to various sections of statute which do not substantially change the duties of impacted agencies.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 99**

AN ACT CONCERNING NEW CAR DEALERS AND INFORMATION REGARDING THE MAGNUSON-MOSS WARRANTY ACT, THE UNAUTHORIZED ACCESS OF COMPUTER DATA, WRITTEN NOTICE FOR HOMEMAKER OR COMPANION SERVICE REGISTRIES AND BUSINESSES THAT MAKE CERTAIN UNSOLICITED AND INTENTIONALLY MISLEADING TELEPHONE CALLS TO CONSUMERS.

SUMMARY:

This bill makes several unrelated changes affecting (1) a consumer's personal information privacy, (2) unsolicited business calls, (3) new car warranty notices, and (4) homemaker-companion registry notice timeframes.

It requires each insurer, HMO, banking or financial organization, and data broker that collects personal information to (1) encrypt customers' personal information and (2) provide customers with written notice of unauthorized access to their personal information and two years of identity theft monitoring.

The bill prohibits anyone from knowingly making unsolicited and intentionally misleading business calls and allows those reporting violations to receive half of any monetary fine or recovered settlement.

Under the bill, new car dealers must provide a specific written statement notifying the purchaser that a federal law prohibits the voiding of a warranty simply because aftermarket parts were used or someone other than the dealer serviced the vehicle.

Finally, the bill reduces the amount of time, from seven calendar days to four, a homemaker-companion service registry has to provide written notice for the consumer to sign (see BACKGROUND). By law,

the written notice (1) must be provided within the timeframe after the registry supplies, refers, or places an individual with the consumer and (2) specifies the registry's legal liabilities to the companion or homemaker.

EFFECTIVE DATE: October 1, 2015, except upon passage for the encryption provision and July 1, 2015 for the new car dealer notice provision.

ENCRYPTION OF CERTAIN PERSONAL INFORMATION

By July 1, 2016, the bill requires each insurer, HMO, banking or financial organization, and data broker that collects personal information, or other entity licensed to do health insurance business in the state, to (1) implement security technology that encrypts the personal information of consumers, insureds, or enrollees compiled or maintained by the entity and (2) update its encryption technology as necessary and practicable. The bill does not specify the penalties for failing to do so. "Encrypt" means to transform electronic data into a form in which meaning cannot be understood without the use of a confidential process or key.

By law, anyone who possesses another person's personal information must safeguard, among other things, the data and computer files from misuse by third parties (CGS § 42-471). Willful violators may be subject to both criminal and civil penalties.

Personal Information

The bill defines "personal information" as a person's first name or initial and last name used with any one or more of the following: (1) a Social Security number, (2) a driver's license or state identification number, (3) a home address, or (4) individually identifiable health information. Personal information does not include publicly available information lawfully available in government records or widely distributed media.

Notice of Unauthorized Access

Within seven days of noticing the data breach, the bill requires a

covered entity to provide written notice to each affected consumer, insured, or enrollee that an unauthorized third party has accessed his or her personal information.

By law, anyone conducting business in Connecticut is required to provide notice to an affected state resident without unreasonable delay (CGS § 36a-701b). Violators are deemed to have committed an unfair trade practice.

Free Identity Theft Monitoring and Protection

Under the bill, a covered entity that had its data breached must provide affected consumers, insureds, or enrollees with at least two years of commercially available identity theft monitoring and protection at no charge.

Implementing Regulations

The bill requires the insurance commissioner, in consultation with the consumer protection commissioner, to adopt regulations to establish the minimum standards for the security technology required to implement the bill's requirements.

UNSOLICITED TELEPHONE CALLS

The bill prohibits any person, including businesses, from knowingly making an unsolicited business telephone call to a consumer using a caller identification service or device that transmits misleading or inaccurate caller identification information to the recipient of the telephone call with the intent to defraud or cause harm to such recipient. Already under law, telephone solicitors who intentionally transmit inaccurate or misleading caller identification information are deemed to have committed an unfair or deceptive trade practice (CGS § 42-288a(d)).

The bill also makes it a separate violation for anyone who has made such unsolicited business telephone call to fail to maintain an active consumer response telephone line for consumer questions and complaints. Each violation under the bill is deemed an unfair or deceptive trade practice.

The bill allows anyone with knowledge of a violation to report all facts and information to the attorney general. The attorney general may review and investigate the facts and information in the report and any other information he or she reasonably derived from the report. If the attorney general takes action against any violator, the person who reported the violation is awarded half of any monetary fines or settlement the attorney general recovers.

NEW CAR DEALER NOTICE ON WARRANTY

This bill requires new car dealers to deliver to the purchaser of a new vehicle, at the time of sale, the following written statement in at least 10-point boldface type:

"The Magnuson-Moss Warranty Act, 15 USC 2301 et seq., makes it illegal for motor vehicle manufacturers or dealers to void a motor vehicle warranty or deny coverage under the motor vehicle warranty simply because aftermarket or recycled parts were installed or used on the vehicle or simply because someone other than the dealer performed service on the vehicle."

The bill does not specify the penalties for failing to do so.

BACKGROUND

Homemaker Companion Services Registry

By law, such a "registry" is any person or entity engaged in the business of supplying or referring an individual to, or placing an individual with, a consumer to provide homemaker or companion services when the homemaker or companion is either (1) directly compensated, in whole or in part, by the consumer or (2) treated, referred to, or considered by the supplying person or entity as an independent contractor.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice,

investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Related Bill

sSB 1024, File 270, favorably reported by the Insurance and Real Estate Committee, requires all health insurers, HMOs, and related entities to encrypt customers' personal information.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/12/2015)