

TESTIMONY OF GEICO IN OPPOSITION TO SB-1108

The GEICO group of companies (“GEICO”), the largest private passenger auto insurer in Connecticut and second largest in the country, opposes SB-1108.

SB-1108 appears to have been modeled after AB-375 from the 2018 California legislative session. That bill (“the California Consumer Privacy Act” or “CCPA”) was rushed through that state’s legislature to fend off a pending ballot initiative. The impact of the CCPA on the California economy remains to be seen but is likely to be severe. More than a dozen bills are currently pending in the California legislature seeking to correct problems created by the hurried enactment of the CCPA.

Connecticut need not, and should not, make an unforced error by rushing to repeat California’s mistake in enacting this highly-problematic legislation. At the very least, Connecticut should let the dust settle and wait to see what corrective action California takes.

In an environment that seeks to encourage not only the stability but growth of the insurance industry, consideration of SB-1108 creates the potential for significant disruption, and across every business sector. It sends a discouraging message not only to businesses already in Connecticut, but to those who would seek to establish or grow here.

Among the many problematic issues raised by this legislation, SB-1108:

- Applies to relatively small businesses, including those that engage in as few as fifty thousand internet consumer contacts.
- Uses an extremely overbroad definition of “personal information” (§1(15)(A)) which would include any “information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.” Basically any piece of data may be “capable of being associated with” a particular consumer, including IP addresses as well as “unique identifiers,” such as device and cookie IDs, as well as internet browsing history. This one-size-fits-all approach to personal information is a drastic shift from long-standing interpretations of what should constitute protected personally identifiable information.
- Uses an extremely overbroad definition of “consumer” (§1(7)), which may include not only true consumers, but employees of the entity and others who otherwise have no real consumer relationship whatsoever with the entity. When applied to entity employees, the data opt-out provisions may prevent employers from maintaining necessary information on employees who engage in abusive or criminal behavior.
- Uses an extremely overbroad definition of “homepage” (§1(12)), which may require separate detailed opt-out information on every portion of the entity’s internet presence (*see* §10(a)(1)).
- Fails to protect the use of data in an aggregated form which poses no legitimate risk to consumer privacy.
- Creates a strict liability litigation regime, with statutory damages (§12), that would increase both the incentives for filing class action suits and the damages available in those suits. To bring an action and receive statutory damages under SB-1108, the plaintiff may not need suffer any actual damage or demonstrate recklessness on the part of the business entity. Entities who made harmless errors will be leveraged into paying massive damages. Those costs (a windfall for the plaintiff and attorneys) will ultimately be passed on to other Connecticut consumers.

- Attempts to create a Gramm-Leach-Bliley Act (“GLBA”) exemption (§11(e)), but using incomplete, ambiguous and confusing language that is unlikely to create a workable exemption. As recently as this month, the Federal Trade Commission (“FTC”) proposed a number of revisions to its GLBA regulations which would address, and may obviate or preempt, several of the safeguard and privacy issues which are the focus of SB-1108.

GEICO respectfully submits that, unlike California’s rushed consideration of these issues and its enactment of a flawed solution in the form of the CCPA, Connecticut should take a deliberative approach and consider the ramifications of this legislation before imposing a solution that will cause far more harm than good.

GEICO urges your opposition to SB-1108.

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