

JAN 22 2016

A BILL FOR AN ACT

RELATING TO SECURITY BREACHES OF PERSONAL INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 487N, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§487N- Security breach; strict liability for damages.

5 (a) Any business whose security breach has caused damage to a
6 consumer of the services of that business shall be strictly
7 liable to that consumer in an amount equal to the sum of any
8 actual damages sustained by the consumer as a result of the
9 security breach.

10 (b) Subsection (a) shall apply notwithstanding the use by
11 the business of any disclaimers of liability for the consumer's
12 use of its services. Any contract clause that purports to
13 prohibit a consumer from bringing legal action against the
14 business, or require arbitration in lieu of litigation, shall be
15 void."

16 SECTION 2. Section 487N-3, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:



1 "(a) Any business that violates [~~any provision of this~~
2 ~~chapter~~] section 487N-2 shall be subject to penalties of not
3 more than \$2,500 for each violation. The attorney general or
4 the executive director of the office of consumer protection may
5 bring an action pursuant to this section. No such action may be
6 brought against a government agency.

7 (b) In addition to any penalty provided for in subsection
8 (a), any business that violates [~~any provision of this chapter~~]
9 section 487N-2 shall be liable to the injured [~~party~~] consumer
10 in an amount equal to the sum of any actual damages sustained by
11 the injured [~~party~~] consumer as a result of the violation. The
12 court in any action brought under this section may award
13 reasonable attorneys' fees to the prevailing [~~party-~~] consumer.
14 No such action may be brought against a government agency."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:


By Request



S.B. NO. 2485

Report Title:

Security Breach; Disclaimers

Description:

Makes businesses strictly liable for damages to a consumer resulting from a security breach, regardless of disclaimers of liability.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

