

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2297

Introduced by Assembly Member Simitian

February 21, 2002

An act to add Chapter 15.5 (commencing with Section 22575) to Division 8 of the Business and Professions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2297, as amended, Simitian. Online Privacy and Disclosure Act of 2002.

Existing law does not regulate the security and confidentiality of consumer nonpublic personal information obtained by persons and entities engaged in on-line business transactions.

~~This bill would declare the intent of the Legislature to provide enhanced consumer protections in the disclosure of nonpublic personal information obtained through on-line business transactions, and in that regard, to require persons and entities engaged in those transactions to provide customers with notice of their on-line privacy rights and improved and more meaningful choices as to whether nonpublic personal information may be disclosed, sold, or shared~~ *require an entity conducting business transactions on an Internet Web site that collects personal and identifying information from web browsers to conspicuously post and fully comply with a privacy policy on its Web site that identifies the nature of the information that it collects from Web browsers, and with whom the entity may share the information. The bill would also require the entity to notify an affected individual in the case of a breach of security that results in the disclosure of personal and*

identifying information in a manner not covered by the privacy policy. The bill would make findings and declarations and declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as, and may be cited as,
2 the Online Privacy and Disclosure Act of 2002.

3 SEC. 2. The Legislature finds and declares all of the
4 following:

5 (a) Each person or entity that engages in on-line business
6 transactions has a continuing and affirmative obligation to respect
7 and uphold the privacy of customers and to protect the security and
8 confidentiality of the customers' nonpublic personal information.

9 (b) It is the intent of the Legislature, in enacting this act, to
10 provide enhanced consumer protections and remedies relative to
11 the disclosure of nonpublic personal information obtained through
12 on-line business transactions.

13 (c) It is the intent of the Legislature to require persons and
14 entities engaged in on-line business transactions to provide
15 customers with notice of their on-line privacy rights and improved
16 and more meaningful choices as to whether nonpublic personal
17 information may be disclosed, sold, or shared.

18 (d) *It is the intent of the Legislature to protect the*
19 *constitutionally guaranteed right to privacy of Californians who*
20 *spend time or conduct business on the Internet, while also fostering*
21 *the continued growth of electronic commerce.*

22 SEC. 3. Chapter 15.5 (commencing with Section 22575) is
23 added to Division 8 of the Business and Professions Code, to read:

24

25 CHAPTER 15.5. INTERNET PRIVACY REQUIREMENTS

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27 22575. (a) *An entity conducting business transactions on an*
28 *Internet Web site that collects personal and identifying*
29 *information from Web browsers shall do both of the following:*

30 (1) *Conspicuously post and fully comply with a privacy policy*
31 *on its Web site that identifies the nature of the information that it*
32 *collects from Web browsers, and with whom the entity may share*



1 *the information. The privacy policy shall establish a process for an*
2 *individual to review and request changes to his or her personal*
3 *information that is collected in this manner. An historical record*
4 *of changes to the privacy policy shall also be posted.*

5 (2) *In the case of a breach of security that results in the*
6 *disclosure of personal and identifying information in a manner not*
7 *covered by the privacy policy, the entity shall notify each affected*
8 *individual of the security breach, of the type of information that*
9 *was improperly disclosed, and to whom, if known, the information*
10 *was improperly disclosed.*

11 (b) *The failure of an entity to comply with this section shall*
12 *constitute an unfair business practice for purposes of Section*
13 *17200.*

