

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Charles Calderon

February 18, 2011

An act to add Section 1798.825 to the Civil Code, relating to Internet transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as introduced, Charles Calderon. Internet transactions: verification: banking and financial services.

Existing law sets forth comprehensive provisions governing funds transfers, as defined, including provisions related to the issuance and acceptance of payment orders, requirements for verification, the effect of errors, the effect of acceptance of a payment order, and related provisions.

This bill would require a business that provides banking or other financial services, as specified, over the Internet to implement and maintain reasonable policies and procedures for authenticating and verifying the legitimacy of a consumer transaction over the Internet, as specified. The bill would authorize the imposition of a civil penalty, as specified, and a civil action for a violation of this provision, as specified.

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. Section 1798.825 is added to the Civil Code, to
2 read:

1 1798.825. (a) A business that provides banking or other
 2 financial services that allows access to or movement of funds under
 3 the ownership or control of a person or business over the Internet
 4 shall implement and maintain reasonable policies and procedures
 5 for authenticating and verifying the legitimacy of a consumer
 6 transaction made over the Internet.

7 (b) The business providing banking or other financial services
 8 that allows access to or movement of funds under the ownership
 9 or control of a person or business over the Internet shall utilize an
 10 out-of-band, two-factor authentication solution to ensure strong
 11 authentication and identity management of users performing
 12 transactions and accessing financial account information over the
 13 Internet.

14 (c) A civil penalty in the amount of three thousand dollars
 15 (\$3,000) may be imposed on a business that fails to conduct an
 16 Internet transaction with a consumer in compliance with the
 17 policies and procedures required pursuant to subdivisions (a) and
 18 (b).

19 (d) Any consumer injured by a fraudulent transaction in violation
 20 of the requirement specified in subdivisions (a) and (b) may
 21 institute a civil action to recover damages.

22 (e) The rights and remedies under this section are cumulative
 23 with each other and with any other rights and remedies under law.

24 (f) Any entity regulated by the Department of Insurance is
 25 exempt from the requirements of this section. However, this
 26 exemption does not apply to any entity that is regulated by both
 27 the Department of Insurance and the Department of Financial
 28 Institutions.

29 (g) For purposes of this section:

30 (1) “Accessing financial account information” shall mean any
 31 change to the information associated with an account that risks
 32 exposing the consumer to monetary loss.

33 (2) “Consumer” shall mean any person or entity that is a
 34 customer of a business providing banking or other financial
 35 services.

36 (3) “Out-of-band, two-factor authentication” shall mean that
 37 the manner of confirming the details of an online financial services
 38 transaction and the identity of its initiator shall employ a
 39 communications channel other than the Internet.

1 (4) “Payment order” shall mean either an actual, specific
2 instruction to pay a specific amount to a specific payee, or the
3 enrollment of that payee as an entity that is eligible for valid
4 payments at some future time. If the latter is authenticated by
5 multiple separate means as provided in this section, then subsequent
6 payments to that entity are not included in this definition and are
7 not subject to this section.

8 (5) “Strong authentication” shall mean the confirmation via a
9 communication channel other than the Internet of both the identity
10 of the initiator of a transaction and that the details of that
11 transaction are those intended by its initiator.

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