

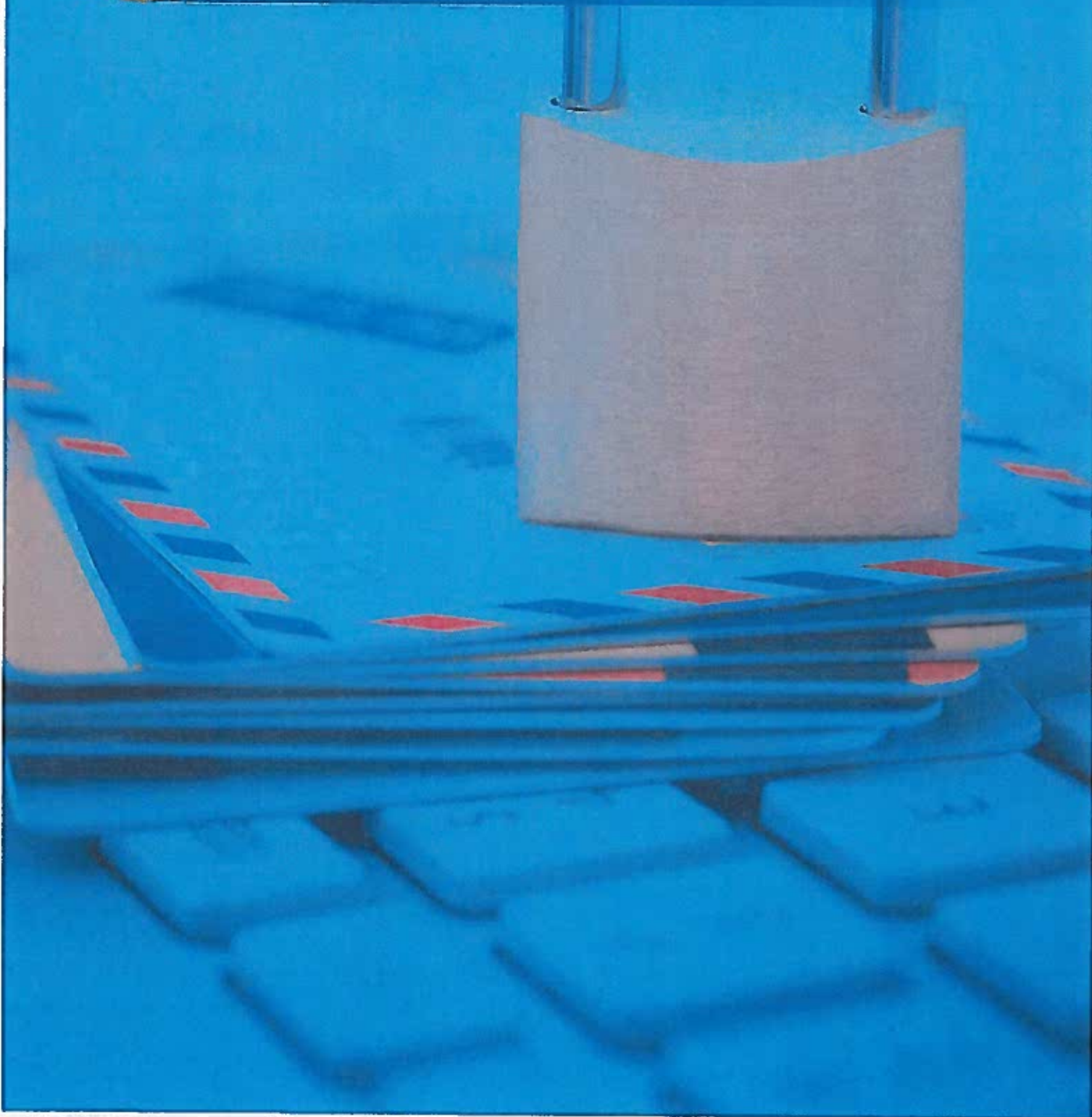


2017 Annual Report of the New York State Senate

Standing Committee on Consumer Protection

Senator David Carlucci

Chairman



2017 ANNUAL REPORT

SENATE STANDING COMMITTEE on CONSUMER PROTECTION

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Alcoholism and Drug Abuse
Energy and Telecommunications
Ethics
Finance
Investigations and Government Operations
Local Government
Mental Health & Developmental Disabilities
Rules
Veterans, Homeland Security
and Military Affairs

**THE SENATE
STATE OF NEW YORK**



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February 26, 2018

Honorable John J. Flanagan
Temporary President of the Senate
Majority Leader
New York State Senate
Albany, New York 12247

Dear Senator Flanagan:

It is my privilege to transmit the annual report of the New York State Standing Committee on Consumer Protection for the 2017 Legislative Session. I have enjoyed working with my colleagues on legislation that best serves our constituents and the great State of New York.

The annual report details the committee activity from January 1, 2017 through December 31, 2017. For the legislative session of 2017, one hundred and ninety-nine bills were assigned to the Consumer Protection Committee, and sixty one bills were reported from the committee. To date, twenty of these bills have been passed in the Senate and seven were signed into law.

I deeply thank and appreciate my colleagues on the Committee for their hard work and commitment throughout the legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Carlucci", written in a cursive style.

Senator David Carlucci
38th Senate District

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PUBLIC HEARING

September 28, 2017 11AM
Hearing Room A,
Legislative Office Building,
Albany, NY

Purpose:

To investigate how best to protect consumers, such as seniors and internet users, from the theft of their personal information.

Testimonies By:

Maria T. Vullo, Superintendent of the Department of Financial Services

Clark Russell, Deputy Bureau Chief, Bureau of Internet & Technology for the Office of the Attorney General

Henry Meier, Counsel for the New York Credit Union Association

Matt Mincieli, Executive Director of TechNet/ DLA Piper

Russ Haven, General Counsel for New York Public Interest Research Group (NYPIRG)

Laura Ehrich, Associate Director for American Association of Retired Persons (AARP)

Leita King, Scam Prevention Coordinator for Lifespan

Maria Alvarez, Executive Director for NY Statewide Senior Action Council

Eric Ellman, Senior Vice President of Public Policy & Legal Affairs for the Consumer Data Industry Association

Rossana Rosado, Secretary of State for the Department of State

Mary Madden, Researcher for the Klein Center for Internet & Society

Charles Bell, Programs Director for Consumers Union



PROTECTING NEW YORKERS FROM IDENTITY THEFT REPORT

In response to the findings of this hearing, we recommend an eight-point plan to combat identity theft and protect New Yorkers from identity theft. We call on state government, and the federal government where necessary, to adopt each one of these points without delay.

1. Expanding the Definition of Private Information

We recommend the enactment of S. 6890/A. 8709 by Senator Carlucci and Assemblywoman Fahy, which expands the definition of “private information,” the disclosure of which would trigger state data breach protocols to include birthdates, home addresses, and telephone numbers. It also removes the requirement that credit card, debit card, and bank account numbers be disclosed along with passwords or security codes to be considered a breach.

2. Give New York State Statutory Authority Over Credit Reporting Agencies

We recommend enacting S. 6878 by Senator Comrie, giving the New York State Department of Financial Services (DFS) licensing authority over credit reporting agencies, as well as the ability to review their records.

3. Drastically Reduce Notification Time

We recommend the enactment of S. 6891 by Senator Carlucci, requiring that a preliminary notification that a breach may have occurred be sent to the Attorney General within 24 hours and to all affected parties within 48 hours. We also recommend the enactment of S. 1104A by Senator Valesky, requiring that notification that a breach has occurred be sent to all affected parties and the Attorney General within 45 days.

4. Set Minimum Data Security Standards for All Large Companies

We recommend the reintroduction and enactment of the Data Security Act. This bill sets minimum, flexible data security standards for credit reporting agencies and other entities including reasonable data safeguards, independent audits by licensed auditors, and a safe harbor provision for those who meet heightened federal standards.

5. Making Credit Freezes Free for All Consumers

Under current law, only an initial credit freeze is free, regardless of whether a breach has occurred. However, companies can charge up to a \$5 fee unfreeze or refreeze your credit. We recommend the enactment of S. 6891 by Senator Carlucci, requiring that companies offer free credit freezes and unfreezes to all New Yorkers at any time.

6. Providing Free Credit Monitoring to All New Yorkers

We recommend the enactment of S. 6912 by Senator Carlucci, requiring that companies that suffer a data breach provide free credit monitoring services to affected parties for one year following a breach.

7. Free FICO

We recommend the enactment of S. 6913 by Senator Carlucci, which would implement a public outreach program to help educate New York consumers about their rights to access their credit report under the federal Equal Credit Opportunity Act, as well as the workings of FICO scores. S. 6914, also by Senator Carlucci, implements a broader education and outreach program to inform consumers about topics such as their rights to notification of a data breach, credit freezes, and credit monitoring, among other topics. Additionally, we call on the federal government to make access to credit reports and FICO scores free in all cases, for all consumers, at any time.

8. Enact S. 5576 Allowing Consumers to “Opt-In” to Any Sharing of Their Personal Information

We recommend the enactment of S. 5576 by Senator Carlucci, requiring internet service providers to provide customers with a copy of their privacy policy and to obtain written and explicit permission from a customer prior to sharing, using, selling or providing any sensitive information to a third party.

Consumer Protection Bills that have been Signed Into Law

Chapter 413- S587A PERALTA- Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state.

Chapter 239- S4361 VALESKY- Requires telemarketers to disclose that a call is being recorded.

Chapter 381- S4383A ALCANTARA- Requires a study on the feasibility of implementing an emergency alert notification system.

Chapter 487- S5152 SAVINO- Limits loan assignee liability with regard to motor vehicle retail installment contracts.

Chapter 477- S5380B GOLDEN- Relates to requiring automobile brokers to be licensed and bonded.

Chapter 339- S5390B ALCANTARA- Relates to membership of the advisory committee.

Chapter 496- S6369A KLEIN- Relates to certain contracts.

CONSUMER PROTECTION BILLS THAT PASSED SENATE

Bill No.

S29 GOLDEN- Relates to process server records.

S208 MARCHIONE- Relates to the sale of governmental signage or other metal property.

S565 YOUNG- Relates to ultraviolet nail dryers.

S587A PERALTA- Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state.

S737A ORTT- Prohibits the sale or purchase of certain items as scrap.

S1236 VALESKY- Regulates the sale of methamphetamine precursor drugs.

S1892 AVELLA- Enacts the "lawn litter law act".

S2651 KLEIN- Relates to augmented reality games.

S3153 GRIFFO- Relates to the training requirements for peace officers.

S4048 CARLUCCI- Establishes no itinerant vendor shall offer for sale baby food, nonprescription drugs, cosmetics and batteries.

S4361 VALESKY- Requires telemarketers to disclose that a call is being recorded.

S4383A ALCANTARA- Requires a study on the feasibility of implementing an emergency alert notification system.

S4711 KLEIN- Expands protections afforded to renters of motor vehicles.

S5125A BOYLE- Prohibits the sale or promotional distribution of machetes to minors.

S5152 SAVINO- Limits loan assignee liability with regard to motor vehicle retail installment contracts.

S5282 LANZA- Exempts certain officers of the departments of correction and sanitation of the city of New York from training requirements for security guards.

S5380B GOLDEN- Relates to requiring automobile brokers to be licensed and bonded.

S5390B ALCANTARA- Relates to membership of the advisory committee.

S5619 KLEIN- Prohibits the sale and distribution of synthetic cannabinoids; and establishes a statewide synthetic cannabinoid surrender program.

S6369A KLEIN- Relates to certain contracts.

CONSUMER PROTECTION BILLS REPORTED FROM COMMITTEE

Bill No.

S29 GOLDEN - Relates to process server records.

S208 MARCHIONE - Relates to the sale of governmental signage or other metal property.

S462C PERALTA- Requires travel consultants and travel promoters to be registered with the department of state, and provides for the regulation thereof.

S565 YOUNG- Relates to ultraviolet nail dryers.

S587A PERALTA- Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state.

S737A ORTT- Prohibits the sale or purchase of certain items as scrap.

S819 FUNKE- Relates to automatic renewals of magazine subscriptions.

S1104A VALESKY- Relates to the timeliness of disclosure of a breach of the security of a system which contains private information.

S1236 VALESKY- Regulates the sale of methamphetamine precursor drugs.

S1250 AKSHAR- Relates to prohibiting the sale, manufacture or possession of flamethrowers.

S1623A LAVALLE- Provides that new passenger-type motor vehicles manufactured for sale in New York state on or after January 1, 2020 shall be offered for sale with a spare tire and jack.

S1821 KENNEDY- Establishes voluntary licensure of master plumbers by the department of state.

S1838 KENNEDY- Requires scrap processors to record certain information.

S1892 AVELLA- Enacts the "lawn litter law act".

S1902 COMRIE- Authorizes a consumer to seek reimbursement for treatment for an unfit cat or dog within 30 days of the purchase of such animal from a pet dealer.

S1982 GALLIVAN- Provides that a business entity may not alter caller identification information with the intent to defraud or harass a third party or the recipient of the call.

S2067 LAVALLE- Prohibits label obstruction of over-the-counter drugs.

S2085 COMRIE- Requires lithium batteries of less than one inch in diameter and products containing such batteries to be labeled with warnings related thereto.

S2179A ALCANTARA- Authorizes the attorney general to bring an action for violation of the prohibitions concerning unlawful selling practices and specifies damages awardable.

S2312A ALCANTARA- Requires certain employment agencies to post job seekers rights in languages other than English.

S2402 CARLUCCI - Relates to the price gouging of pharmaceuticals.

S2436 PARKER- Requires wireless telephone companies that offer shared or family plans to allow victims of domestic violence to be released from the account without penalty in instances of domestic violence.

S2651 KLEIN- Relates to augmented reality games.

S2713 PARKER- Prohibits the erection or maintenance of billboards advertising alcoholic beverages within 1000 feet of schools and playgrounds.

S2748 ALCANTARA- Permits antitrust fines or penalties to be paid to the office of victim services in the court's discretion.

S2988 LAVALLE- Prohibits the imposition of certain fees at the expiration of a term on a motor vehicle lease which constitutes administrative, clerical or handling charges.

S3152 GRIFFO- Raises the maximum fine for persons who violate the law regulating telemarketing to twenty thousand dollars.

S3153 GRIFFO- Relates to the training requirements for peace officers.

S3273 PARKER- Prohibits the use of social media websites for the purpose of debt collection.

S3484A GOLDEN- Relates to enacting provisions relating to mail order pharmacies and prescription benefit plans.

S3743 GRIFFO- Relates to the one-call notification system.

S3897A CARLUCCI- Relates to home improvement contract provisions.

S3911A ORTT- Relates to third party litigation financing.

S4048 CARLUCCI- Establishes no itinerant vendor shall offer for sale baby food, nonprescription drugs, cosmetics and batteries.

S4055B CARLUCCI- Relates to prohibiting the sale of crib bumper pads and the restriction of the use of such pads in certain settings.

S4056 CARLUCCI- Prohibits issuers of credit cards and debit cards from knowingly accepting or soliciting financial information of a cardholder from a third-party.

S4361 VALESKY- Requires telemarketers to disclose that a call is being recorded.

S4383A ALCANTARA- Requires a study on the feasibility of implementing an emergency alert notification system.

S4608A HAMILTON- Requires the consent of all parties for any transaction involving a motor vehicle where there are multiple purchasers, sellers, or lessees.

S4711 KLEIN- Expands protections afforded to renters of motor vehicles.

S5125A BOYLE- Prohibits the sale or promotional distribution of machetes to minors.

S5152 SAVINO- Limits loan assignee liability with regard to motor vehicle retail installment contracts.

S5186 CARLUCCI- Establishes the Made by New Yorkers fund to provide grants to certain small and medium businesses in the state that are seeking to expand.

S5282 LANZA- Exempts certain officers of the departments of correction and sanitation of the city of New York from training requirements for security guards.

S5380B GOLDEN- Relates to requiring automobile brokers to be licensed and bonded.

S5390B ALCANTARA- Relates to membership of the advisory committee.

S5426A AVELLA- Relates to prohibitions on circus performances.

S5468 RANZENHOFER- Restricts automatic renewal of contracts for electronic and life safety alarm services.

S5601A CARLUCCI- Relates to notification of security breach.

S5603B CARLUCCI- Prohibits the disclosure of personally identifiable information by an internet service provider without the express written approval of the consumer.

S5619 KLEIN- Prohibits the sale and distribution of synthetic cannabinoids; and establishes a statewide synthetic cannabinoid surrender program.

S5653B KLEIN- Prohibits the disclosure or use of consumer credit history in hiring, employment and licensing determinations.

S5684 SAVINO- Relates to the layout, installing, servicing, repairing, inspecting, testing, maintaining of automatic water-based fire protection systems.

S5697A SAVINO- Requires certain disclosures by sperm and ovum storage facilities.

S5854 ROBACH- Relates to clarifying provisions pertaining to pre-need funeral services.

S5955A HAMILTON- Relates to human trafficking awareness and training.

S5986 PERALTA- Requires travel agents to be registered with the department of state, and provides for the regulation thereof.

S6088A SAVINO- Relates to licensing laser hair removal technicians.

S6116 CARLUCCI- Relates to the use of voice recognition features on certain products.

S6369A KLEIN- Relates to certain contracts.

S6508A CARLUCCI - Requires online market places to provide a product recall search web form.



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