



DATA BREACH AND DATA PRIVACY DEPARTMENT OF JUSTICE PRESENTATION TO JOINT COMMITTEE ON INFORMATION MANAGEMENT AND TECHNOLOGY

APRIL 26, 2023

PRESENTERS:

KIMBERLY MCCULLOUGH, LEGISLATIVE DIRECTOR FOR THE
OREGON DOJ

KRISTEN HILTON, SENIOR ASSISTANT ATTORNEY GENERAL,
CONSUMER PROTECTION SECTION

TODAY'S SESSION

- Overview of current Oregon law
- Recent enforcement examples
- Consumer Privacy Task Force
- 2023 Legislative Session Bills:
 - SB 619 – Oregon Consumer Privacy Act
 - HB 2052 – Data Broker Transparency



OREGON LAWS GOVERNING PRIVACY AND DATA SECURITY MATTERS

Consumer Information Protection Act ORS 646A.600

- Notice provisions
- Reasonable security requirements

Unlawful Trade Practices Act ORS 646.605-646.656

- Prohibition on misrepresentations
- Internet of Things and student privacy

DATA BREACH – ENFORCEMENT EXAMPLES

Avalon Health Management

- Announced December 2022
- Joint action with Utah Attorney General
- 2019 breach -14,500 Avalon employees and patients, including 1,649 Oregonians
- Failure to comply with HIPAA security and privacy requirements
- 10 month notice delay
- \$200,000 settlement

T-Mobile / Experian

- Announced November 2022
- 40 Attorneys General
- 107,945 Oregonians who had applied for postpaid services or device financing
- 2 year breach - impacted names, addresses, dates of birth, SSNs, and identification numbers
- \$15.1M total settlement (\$12.67M Experian; \$2.43M T-Mobile)

DATA BREACH – ENFORCEMENT EXAMPLES

Carnival Cruise Line

- Announced June 2022
- 46 Attorneys General
- 180,000 employees & consumers in the U.S.
- “Unstructured” data - names, addresses, passport numbers, driver’s license numbers, payment card information, health information, and SSNs
- 10 month notice delay
- \$1.25M settlement

Gustafson & Company

- Announced October 2021
- Oregon DOJ
- 1,881 Oregon consumers
- Complete tax return files, including name, address, SSNs, and financial account numbers
- Fraudulent tax returns filed
- \$50,000 settlement

DATA BREACH – ENFORCEMENT EXAMPLES

CafePress

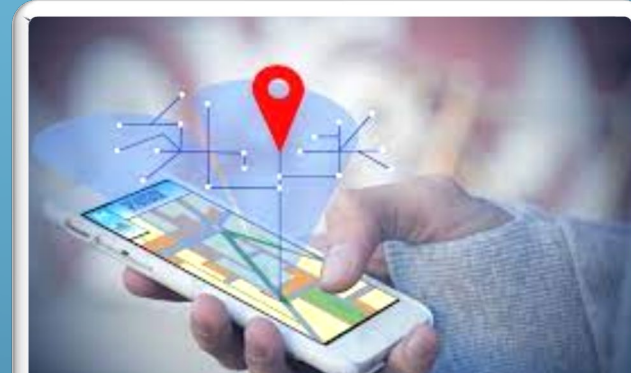
- Announced December 2020
- 7 Attorneys General
- 22 million customers, including inactive and closed accounts
- Usernames, passwords, SSNs, tax identification numbers
- Investigation and notice delay
- \$2M settlement

The Home Depot

- Announced November 2020
- 46 Attorneys General
- 40 million customers
- Payment card information
- Malware on point-of-sale systems in place for over 6 months
- \$17.5M settlement

PRIVACY WORK

- Google Location Tracking Settlement
- Current privacy issues



Google Agrees to \$392 Million Privacy Settlement With 40 States

Under the agreement, which state attorneys general said was the largest U.S. internet privacy settlement, Google must also make its location-tracking practices clearer to users.



OREGON CONSUMER PRIVACY TASK FORCE

- Convened in June 2019
- Over 150 stakeholders
- Central table members:
 - ACLU of Oregon
 - OSPIRG
 - World Privacy Forum
 - Gazelle Consulting
 - Judiciary Committee staff
 - Technology Association of Oregon
 - State Privacy Coalition
 - Oregon Business & Industry
 - Electronic Frontier Foundation

OREGON CONSUMER PRIVACY ACT – SB 619

- Applies to businesses who collect, use, store, disclose, analyze, delete, or modify personal data of Oregon consumers:
 - $\geq 100,000$ consumers; or
 - $\geq 25,000$ consumers + $\geq 25\%$ gross revenue from data sales
- Exemptions:
 - Data regulated under various federal laws
 - Conflict of law, legal process, law enforcement, security incident response, repairs, providing requested service, health & safety

SB 619 - CONSUMER RIGHTS

- Right to know (categories of data processed, who data is disclosed to, and copy of data)
- Right to correction
- Right to deletion
- Right to opt-out (targeted advertising, sale, profiling)
- Right to data portability

SB 619 - SENSITIVE DATA PROTECTIONS

- Consent/opt-in for processing sensitive data
 - Personal data revealing racial or ethnic background, national origin, religious beliefs, mental or physical condition or diagnosis, sexual orientation, status as transgender or nonbinary, crime victim status, or citizenship or immigration status
 - Genetic or biometric data
 - Precise geolocation data

SB 619 - PROTECTIONS FOR CHILDREN

- Personal data from a child (under 13 years old)
 - Must follow requirements of the federal Children's Online Privacy Protection Act (COPPA)
- Personal data from a youth (13 to 15 years old)
 - Consent/opt-in required for targeted advertising, profiling and sale of data
 - Applies if controller knows or willfully disregards knowing the youth is 13-15 years old



SB 619 - ADDITIONAL PROVISIONS

- Controller and processor obligations
- Comprehensive privacy notice
- Data minimization requirements
- Data security requirements
- Nondiscrimination for exercising rights
- Data protection assessments

SB 619 - UNIQUE OREGON PROVISIONS

- Strong definitions of “biometric data”, “personal data”, and “sensitive data”
- No carveout for pseudonymous data
- Applicability to nonprofits
- Right to know specific third parties data has been shared with
- Ability to use global/universal opt-out
- Strong protections for children’s data

DATA BROKER TRANSPARENCY – HB 2052

- Reintroduction of HB 4017A (2022)
- Creates a data broker registry for Oregon
- To do business in Oregon, a data broker will have to register with DCBS, and provide:
 - Contact information
 - Information about whether a consumer can “opt out” of the data broker’s collection and sale of their personal information
 - A method for requesting an opt out (if applicable)

An abstract graphic on the left side of the slide, consisting of white lines and circles on a blue gradient background. The lines are vertical and horizontal, with some diagonal segments, and the circles are of varying sizes, resembling a circuit board or a network diagram.

Questions?