

2019 SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE

SB 2219

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2219
1/23/2019
Job #31287

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to the confidentiality of social security numbers; and to data processing information confidentiality; and to provide a penalty.

Minutes:

Att. #1-5

Senator Tim Mathern, District 11: see attachment #1 for testimony in support of the bill. See attachment #2 for proposed amendments.

4:30Chairman Klein: Was this gentleman just a vulnerable individual, when would you be asked for your social security number?

Senator Mathern: I think it may have begun with him not being able to discern when to give it out and when not to. When his parents got involved they said we don't want this information out, can't you provide the service without? Sometimes we might have an old system in a business. I know for example we had that issue with driver's licenses and hunting licenses. I think it's really in that regard that changes are going on.

Chairman Klein: If you had attended the hearing on 2262, we were just discussing the skimmers on scanners, not many people are asking for social security cards for a variety of reasons. And I think people are being pretty protective of their information already. We'll probably have testimony suggesting that people aren't asking for social security numbers anymore for a variety of reason.

Chairman Klein: Asked for testimony in opposition to the bill. Chairman mentions testimony handed out prior to the meeting. See attachments #3 and #4 for additional testimony in opposition to the bill

(9:23)Cheryl Riley, AT&T: see attachment #5 for testimony in opposition of the bill.

(12:55)Chairman Klein: I think you've covered all the major points.

Matt Garner, Greater North Dakota chamber: testified in opposition to the bill. I just want to concur with what Cheryl said. I think what the bill sponsor is trying to do has merit, but it would limit our businesses' ability to do business.

Lisa Carlson, Sanford Health plan: testified in opposition to the bill. I'm here with some background information on health insurance companies. HIPAA federal privacy act already covers much of the protection requirements for private health information which is all encompassing, and would be inclusive of the social security number. Additionally, this act, it would be difficult for carriers to continue to try to decide which requirements would require disclosure to the member versus what's under federal law. There are lots of purposes that we use social security numbers today that assist with private health information fraud and abuse. For example, when carriers are trying to subrogate benefits between a motor vehicle insurance company and a health insurance company, that will entail confirm the identity of the individual from two different systems. Social security numbers and all private health information has to be by federal law transferred securely. But there is a provision in this bill that may require carriers to try to understand when it requires prior notification and authorization, written consent from the member. That would be an additional burden that would be placed on carriers and we are concerned it would drive up costs of again, unnecessary duplicates of privacy laws.

(15:59)Chairman Klein: Closed the hearing on SB 2219.

Chairman Klein: We have an amendment before us? I think it would probably be good for the sponsor that we place the amendment on it.

Senator Kreun: Move a Do Pass on the amendment.

Vice Chairman Vedaa: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Vice Chairman Vedaa: Move a Do Not Pass on the bill as amended.

Senator Roers: Seconded.

Chairman Klein: I think that Senator Mathern's intentions with this bill are noble. But it would be bad for business.

Senator Piepkorn: Again, it seems like maybe I don't have all the information. But it seems like the intentions are good but there are unintended consequences for persons whom are harmed by this or affected by this action. Might need more careful direction in the future.

Chairman Klein: Yes, and with both you and Senator Kreun having said, what it looks to me is a vulnerable individual was taken advantage of, and by doing this doesn't necessarily mean that we'll make him whole or make it right as we hinder the rest of the state.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

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Senator Piepkorn will carry the bill.

January 22, 2019

SK
1/23/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2219

Page 2, line 6, after "6." insert """Hospital" means a facility licensed under chapter 23-16 or a facility operated as a hospital by the United States government.

7."

Page 2, line 7, replace "7." with "8."

Page 2, line 9, replace "8." with "9."

Page 2, line 11, replace "9." with "10."

Page 4, line 8, remove "or"

Page 4, line 9, replace the underscored period with "; or

d. A hospital."

Renumber accordingly

Date: 1/23/19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2219

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: 19.0016.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Kneun Seconded By Vedaa

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2219: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the Sixth order on the calendar.

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2019 TESTIMONY

SB 2219

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SB 2219- January 23, 2019

Senate Industry Business and Labor Committee

Chairman Klein and Committee Members,

My name is Tim Mathern. I serve as the Senator from District 11 in Fargo. I am here as a sponsor of SB 2219 which upon passage would restrict the use of social security numbers.

I introduced this bill at the request of constituents. They have a son who is handicapped and as such they were helping him with many decisions of daily living. In the process they learned that he had given his social security number to many businesses at their request. They were concerned about the risk of him being defrauded because of his social security number being so widely available. They also began to get concerned about their own social security numbers as do several their senior citizen friends. For these reasons they asked me to introduce this bill.

Mr. Chairman and members of the committee

Section 1 is a list of definitions.

Section 2 prohibits the disclosing of any personal information related to data processing services without consent and provides a few exceptions to when consent is not required.

Section 3 is a legislative council suggested style change.

Section 4 defines the prohibition on the release or use of an individual's social security number but exempts; those required by state or federal law, items of use before August 2019 and the financial institutions (lines 15-17 page 3).

ND hospitals have a special provision in federal law about confidentiality and as I would be supportive of an exemption for hospitals. Note amendment attached.

We have made changes in this regard for example in our driver's licenses, the time has come to make these additional restrictions in use of Social Security #s.

Thank you for your consideration. I ask for your yes vote on SB 2219.

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Here are several references.

<https://epic.org/privacy/ssn/>

<https://www.ssa.gov/history/reports/ssnreportc2.html>

<http://www.ncsl.org/research/financial-services-and-commerce/social-security-number-2010-legislation.aspx>

<https://www.mofo.com/resources/publications/state-statutes-restricting-or-prohibiting-the-use-of-social-security-numbers.html>

https://advocacy.consumerreports.org/research/state_laws_restricting_private_use_of_social_security_numbers/

The following states have passed these meaningful SSN protections:

- States that either restrict the solicitation of SSNs or prohibit denying goods and services to an individual who declines to give an SSN:
 - Alaska
 - Kansas
 - Maine
 - New Mexico
 - Rhode Island

19.0016.01001
Title.

SB2219 1/23/19 Att#2
Prepared by the Legislative Council staff for
Senator Mathern
January 22, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2219

Page 2, line 6, after the underscored period insert ""Hospital" means a facility licensed under chapter 23-16 or a facility operated as a hospital by the United States government.

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Renumber accordingly

SB2219 1/23/19 Att #3



American Property Casualty
Insurance Association

January 23, 2019

SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE

OPPOSE Senate Bill 2219 – Confidentiality of Social Security Numbers

Chairman Klein and Members of the Committee,

Senate Bill 2219 enacts consumer protections that would limit when a business entity, firm or association may require an individual to disclose his or her social security number. The bill would limit the ability of a business entity, firm, or association to require an individual to disclose his or her social security number to obtain goods or services from a business or to enter into a business transaction with the business entity. This provision is of particular concern to property-casualty insurers.

Senate Bill 2219 is problematic because it prohibits a vital way that property-casualty insurers verify an individual's identity. During the claims process, the claimant's social security number is used to verify his or her identity and to prevent insurance fraud. If this bill were passed, insurers would not be able to effectively verify an individual's identity leading to a potential increase in identity theft, which is, remarkably, the reason cited for enacting the bill in the first place.

The Surety & Fidelity Association of America, as well as The American Property Casualty Insurance Association, opposes Senate Bill 2219 because it limits the ways in which insurers can verify an individual's identity, which has the potential to increase identify theft. Insurers have been using individuals' social security numbers for years with limited instances of identity theft as a result. Senate Bill 2219 does nothing to protect an individual's identity, and may, in fact, have an adverse impact.

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Gabby Reed, Manager
State Government Affairs – Rocky Mountain Region

Elsevier
LexisNexis Legal & Professional
LexisNexis Risk Solutions
Reed Exhibitions

January 21, 2019

The Honorable Tim Mathern
North Dakota State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Re: Senate Bill 2219: Confidentiality of Social Security Numbers

Dear Senator Mathern:

I am writing on behalf of RELX and LexisNexis to make you aware of our strong concerns regarding SB 2219 “Confidentiality of Social Security Numbers”, which would severely limit the use of social security numbers for legitimate business purposes. As currently drafted, Senate Bill 2219 is a broadly sweeping bill that would result in a myriad of unintended consequences.

LexisNexis is a division of RELX and is recognized as a leading provider of authoritative legal, public records, and business information which helps our customers make informed and accurate decisions. LexisNexis is the nation’s leading provider of credential verification and identification services for Fortune 1000 businesses, government and law enforcement agencies, and the property and casualty insurance industry. LexisNexis plays a vital role in supporting government, law enforcement, and business customers who use our information services for important uses including: detecting and preventing identity theft and fraud, finding deadbeat parents or missing children, locating suspects, and preventing and investigating criminal and terrorist activities.

A social security number is the only identifier that is uniquely and permanently associated with an individual; this permits a level of identity verification that is essential to legitimate commerce. Although there are other identifiers that may serve similar purposes in some context, there are no other identifiers that serve this role across all individuals and circumstances. Thus, social security numbers are an essential component for countless government and commercial operations including identify verification and fraud prevention.

For example, social security numbers dramatically increase the ability of child support enforcement agencies to locate non-custodial, delinquent parents. Additionally, access to social security numbers are an important tool for insurance fraud investigation. The FBI estimates that the total cost of insurance fraud (not including health insurance) is more than \$40 billion per year; limiting the use of social security numbers in this realm would likely drive these costs even higher.

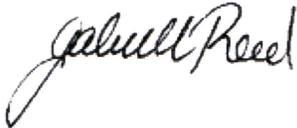
It is also important to consider that there are already several federal laws already in existence that restrict the use or disclosure of social security numbers including: the Gramm-Leach-Bliley Act; the Fair Credit Reporting Act; the Health Insurance Portability and Accountability Act; and the Drivers Privacy Protection Act. These laws restrict the use and display of social security numbers, how they can be used, who they can and cannot be shared with, and under what circumstances. These laws have been finely crafted to ensure the safeguard of consumer information while also permitting legitimate business purposes.

Overall, restricting or prohibiting access to social security numbers would directly result in disruption to government processes and create economic disadvantages to both North Dakota businesses and

consumers. I appreciate your consideration of these points on the importance of maintaining access to social security numbers as a critical identifier in countless business and consumer activities.

Thank you for your time to consider RELX's comments on this impactful piece of legislation. Should you have any questions, please do not hesitate to contact me either via e-mail at gabby.reed@relx.com or at 202-403-7893.

Sincerely,



Gabby Reed
Manager, State Government Affairs - Rocky Mountain Region
RELX Group

CC: Senator Jerry Klein, Co-sponsor and Chairman, Senate Industry, Business & Labor Committee



Cheryl Riley
President, External Affairs
Northern Plains States

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www.att.com

January 23, 2019

Oppose Senate Bill 2219

Hon. Jerry Klein, Chair

Senate Industry, Business and Labor Committee

Chairman Klein and members of the Senate Industry Business and Labor Committee,

On behalf of AT&T, I would like to submit testimony in opposition to S.B. 2219, regarding the confidentiality of social security numbers (SSNs) and data procession confidentiality.

First and foremost, from a consumer privacy protection angle, AT&T believes that consumers deserve one set of privacy rules, no matter where they live or what technology they use. We have called on Congress to pass baseline privacy legislation that will apply across the nation, and we are working with industry, consumer groups, and policymakers to build consensus on what this law should contain.

AT&T – and many other companies – work hard to protect your privacy and keep your personal information safe. We use encryption and other security safeguards to protect customer data.

State legislation such as S.B. 2219, however, creates a patchwork quilt of inconsistent privacy regulations at the state level, which will only serve to confuse consumers and stifle innovation.

In today's economy, consumers routinely use their Social Security numbers, with both notice and consent, for many transactions. Examples include when buying a car, applying for health insurance, purchasing firearms, applying to universities and a host of other transactions. This bill will prohibit anyone from applying for a mortgage or car loan electronically, which in a state like North Dakota, would negatively impact consumers, especially those in rural areas who often conduct business electronically.

When a consumer provides his or her SSN to a company, it helps the credit bureau to authenticate that individual and provide an accurate determination of his or her creditworthiness. Without providing a SSN, there's a higher chance that the credit bureau won't be able to locate an individual with confidence, would flag that person as an unknown risk, and threaten a consumers' ability to obtain credit.

Additionally, a consumer's use of a Social Security number reduces fraud, because a consumer is usually the only person who has his or her SSN readily available. Prohibiting its use would make it easier for a random person to walk into the store and apply for credit under a false identity.



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Alternately, we cannot support S.B. 2219 from a business perspective. This bill essentially prohibits any business, except for financial institutions, from using SSNs for online transactions. Many businesses routinely use Social Security numbers to perform employee background checks and determine whether someone is eligible to work in the United States.

Other examples where the SSN is utilized include:

- Identification—to ensure they are actually employing who they think they are—and background checks
- I-9—confirmation of legal right to work.
- Rehire tracking—so companies can identify individuals terminated for cause who seek re-employment as employees.
- Benefits—pensions, health and welfare benefits, 401K, etc.—all driven by SSN
- Payroll processing

S.B. 2219 bill fails to include language allowing exception for even these legitimate business purposes.

AT&T feels strongly that this bill is not necessary. The FTC privacy framework defines SSNs as sensitive personal information, meaning that businesses of all types must obtain opt-in consent before collecting and using these numbers and must secure them properly. Failure to do so can lead to an enforcement action by the FTC or the North Dakota Attorney General.

Federal legislation is also necessary to codify any privacy law that builds on and strengthens the FTC's role as the nation's preeminent privacy "cop on the beat."

Furthermore, North Dakota's data breach notification law, N.D. Code §§ 51-30-01 et seq., requires notice to consumers, and in some cases to the Attorney General, of the unauthorized acquisition of Social Security numbers.

We ask that you take these points into serious consideration and vote to give S.B. 2219 a "do not pass."

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cheryl Riley".

Cheryl Riley
AT&T President External Affairs, Northern Plains States