



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

November 3, 2017 Edition



General Election

Tuesday, November 7th

**All Polls open at 6 a.m.
& close at 9 p.m.**

In the News – New York State



A.G. Schneiderman Announces SHIELD Act To Protect New Yorkers From Data Breaches

2016 Saw A 60% Increase In Data Breaches Impacting New Yorkers

Attorney General Eric Schneiderman announced the introduction of new legislation (S6933/A8756) aimed at protecting New Yorkers' personal information from a growing number of data breaches.

The Stop Hacks and Improve Electronic Data Security Act (SHIELD Act) was introduced this week by Senator David Carlucci and Assemblyman Brian Cavanaugh.

“It’s clear that New York’s data security laws are weak and outdated,” Attorney General Schneiderman said, citing the recent Equifax breach. “The SHIELD Act would help ensure these hacks never happen in the first place. It’s time for Albany to act...”

According to the Attorney General, his office received a record 1,300 data breach notifications, representing a 60 percent increase over the previous year. September's Equifax breach impacted over 8 million New Yorkers.

Under the SHIELD Act, companies would have a legal responsibility to adopt "reasonable" administrative, technical, and physical safeguards for sensitive data. The standards would apply to any business that holds sensitive data of New Yorkers, whether they do business in New York or not.

Current law, the Attorney General noted, allows companies to compile sensitive data about individual New Yorkers. However, the companies are not obligated to meet any data security requirements if the personally identifying information does not include a social security number. For example, current law does not require companies to report data breaches of username-and-password combinations, or biometric data like the fingerprint used to unlock an iPhone.

"Recent data breaches have put New Yorkers at risk. We are woefully unprepared to protect against cyber attacks, putting America's economy in peril. While the federal government drags their feet we must act to protect New Yorkers. The SHIELD Act will serve as a blueprint for NY and the rest of the nation to follow to keep Americans safe," said Senator David Carlucci.

The SHIELD Act expands the types of data that trigger reporting requirements, to include username-and-password combinations, biometric data, and HIPAA-covered health data. The bill also provides companies that obtain independent certification that their data security measures meet the highest standards would receive safe harbor from state enforcement action.

"Major deficiencies in the data security practices of big businesses have led to massive breaches, putting millions of New Yorkers at risk," said Assemblyman Kavanagh, who chairs the Assembly Consumer Affairs and Protection Committee. "...In this technological age, we cannot allow companies to be careless with our personal information."

Specifics of the The SHIELD Act:

- Carves out "compliant regulated entities," defined as those already regulated by, and compliant with, existing or future regulations of any federal or NYS government entity (including NYS DFS regulations; regulations under Gramm-Leach-Bliley; HIPAA regulations) by deeming them compliant with this law's reasonable security requirement. The bill provides that "certified compliant entities," defined as those with independent certification of compliance with government data security regulations, or with ISO/NIST standards, receive safe harbor from AG enforcement actions under this law.
- Provides a new standard for small business (less than 50 employees and under \$3 million in gross revenue; or less than \$5 million in assets): requiring reasonable safeguards "appropriate to the business' size and complexity."
- For all other businesses, requires "reasonable safeguards" and provides clear examples of safeguards (e.g., technical, administrative, and physical measures).

- Deems inadequate security a violation of GBL § 349 and permits the Attorney General to bring suit and seek civil penalties under GBL § 350(d).
- Broadens the requirements for reporting a breach to the Attorney General by adding as a trigger of required notice: “Access to” (e.g., viewing of) private info (in addition to current trigger for “acquisition”).
- Notification for breaches of additional data types, including username-and-password combination, biometric data, and HIPAA-covered health data.
- Applies the notice requirement to anyone holding private info of New Yorkers, changing the current requirement that they “conduct business” in New York State.



Comptroller DiNapoli Warns of 'Triple Threat' of Fiscal Risks

*Tax Receipts Below Plan, Projected Budget Gaps,
Federal Funding Cuts
Are Cause for Concern*

New York faces serious fiscal challenges in 2018, according to State Comptroller Thomas DiNapoli, who cited projected budget gaps, weaker than expected personal income tax collections, and cuts to federal programs.

A report released this week by the Comptroller indicated that State tax collections totaled \$36.1 billion through the first half of New York's 2017-18 fiscal year, \$386.6 million below the latest projections. The shortfall was largely due to lower than expected personal income tax collections..

Meanwhile, the most recent State Financial Plan projected a budget gap of \$4.1 billion for the coming fiscal year. The Comptroller noted that if tax receipts continue to fall below projections, next year's projected gap may grow.

Through September, personal income tax (PIT) collections totaled nearly \$22.2 billion, a decline of 5.6 percent, or \$1.3 billion, from the same period in state fiscal year (SFY) 2016-17 and were \$371.3 million below updated projections from August. PIT collections were \$1.1 billion below initial estimates from the Enacted Budget.

On a positive note, through the mid-year, business tax collections totaled \$3.6 billion, an increase of \$276 million, or 8.2 percent, from the same period in SFY 2016-17.

In the News – New York City

New York City Becomes First in Nation to Enforce Salary History Ban

New York City this week became the first municipality in the nation to enforce a law prohibiting all employers in New York City from inquiring about job seekers' salary history during the hiring process, including on job applications, and in interviews.

By removing questions about an applicant's previous earnings, the law allows applicants to negotiate a salary based on their qualifications and earning potential rather than being measured by their previous salary. Mayor Bill de Blasio signed the bill into law in May.

“New York City is taking a decisive step forward in the fight for equal pay. This new law will help to end the cycles of structural racism and sexism that have held women and people of color back for too long, and create a fairer City for all New Yorkers,” said Mayor Bill de Blasio.



Nationally, women earn 80 cents for every dollar that men earn, according to U.S. Census Bureau. In New York City, women earn \$5.8 billion less than men in wages each year.

According to a report by New York City's Public Advocate Leticia James, this disparity is even greater for people of color. Black women in New York City make 55 cents for every dollar a white man makes while Hispanic women make 45 cents.

Nationally, Black men earned 73 percent of white men's hourly earnings in 2015, according to the Pew Research Institute, while Hispanic men earned 69 percent. This translates to average hourly wages for Black and Hispanic men of \$15 and \$14, respectively, compared with \$21 for white men.



“Equal pay for equal work is a basic human right and today, New York City takes a critical step towards achieving it,” said Public Advocate James. “By banning questions about salary history, we are putting a stop to an employment practice that perpetuates gender wage discrimination and hurts all New Yorkers.”

The law, which will be enforced by the NYC Commission on Human Rights, makes it illegal for both public and private employers in New York City to inquire about a job applicant's salary history during the hiring process, including:

- Asking applicants questions about or soliciting information in any way about applicants' current or prior earnings or benefits, including on job applications.
- Asking applicants' current or former employers or their employees about applicants' current or prior earnings or benefits.
- Searching public records to learn about applicants' current or prior earnings or benefits.
- Relying on information about applicants' current or prior earnings or benefits to set their compensation.

The new law, which was passed by New York City Council in April 5, 2017 and signed into law by Mayor de Blasio on May 4, 2017, protects applicants applying for full-time, part-time, and internship positions as well as independent contractors. It does not, however, prohibit job seekers from voluntarily informing employers of their previous salary, nor does it prohibit employers from asking applicants about their salary expectations or providing a salary range for a job.

The Commission has the authority to fine violators with civil penalties of up to \$250,000 for willful and malicious violations of the Law and can award unlimited compensatory damages to victims, including emotional distress damages and other benefits. The Commission considers a variety of factors when assessing fines, including the size and sophistication of a business, the ability to pay, the willfulness of the violation, and the impact of a fine on a business. The Commission can also order trainings on the NYC Human Rights Law, changes to policies, and other relief including community service and mediated apologies.

Bills Approved by the City Council

Introduction 773-B, sponsored by Council Member Ben Kallos, would require the DOE to submit to the Speaker of the Council and post on its website a report including data related to meals served by DOE to students in school.

Introduction 778-A, sponsored by Council Member Rosie Mendez, would establish permanent reporting on disciplinary actions, aggregating all actions into a yearly report.

Introduction 1066-A, sponsored by Council Member Rafael Espinal, would require the Department of Homeless Services (DHS) to maintain a record of all unsheltered homeless persons who are receiving services from or have been contacted by outreach staff.

Introduction 1176-A, sponsored by Council Member Ben Kallos, would require that the Office of Management and Budget (OMB), at the time the Preliminary and Executive Budgets are submitted to the Council, provide the Council with both human- and machine-readable versions of the documents.

Introduction 1307-A, sponsored by Council Member Jumaane Williams, would specify qualifications for Department of Buildings (DOB) inspectors who inspect medical and natural gas piping systems, backflow prevention and electrical work, and inspectors who conduct other types of inspections.

Introduction 1316-A, sponsored by Council Member Dan Garodnick, would require the entity that administers economic development benefits on the City's behalf to submit impact statements for each covered project receiving assistance. The impact statement would also have to include the job creation estimates for the first fiscal year in which the full fiscal impact of the project is expected to occur.

Introduction 1322-A, sponsored by Council Member Corey Johnson, would require entities that administer economic development benefits on the City's behalf to report on efforts made to recover financial assistance provided to projects which default on the material terms of the project agreement under which such assistance was provided.

Introduction 1337-A, sponsored by Council Member Helen Rosenthal, would require that NYCEDC submit a project description and budget for covered economic projects to the Speaker for review and comment at least 30 days before holding a public hearing on the project or, for projects which do not require a public hearing, before the project agreement is executed.

Introduction 1379-A, sponsored by Council Member Ritchie Torres, would explicitly prohibit discrimination in public contracting by making it unlawful for a City agency to deny a contract based on actual or perceived race, creed, color, national origin, age, gender, disability, sexual orientation, alienage or citizenship status of the owners of the bidder or proposer, and by enabling a bidder or proposer who believes they have been discriminated against by a City agency selecting a contract to protest the agency's determination via rules established by the procurement policy board.

Introduction 1436-A, sponsored by Council Member Steven Matteo, would require the Department of Buildings (DOB) to report on site safety manager and coordinator certificates, including the number of certificates, the number of sites which required a site safety manager or coordinator, the number of certificates issued, the number of applications filed, the average time for approval of an application and the average time for completion of the background check.

Introduction 1443-A, sponsored by Council Member Ritchie Torres, would require training for certain staff working in Department of Homeless Services (DHS) shelters and Human Resources Administration (HRA) HIV/AIDS Services Administration (HASA) facilities in administering naloxone (Narcan) to individuals who have overdosed on opioids.

Introduction 1558-A, sponsored by Speaker Melissa Mark-Viverito, would require the Department of Probation (DOP) to publish its policy regarding cooperation with U.S. Immigration and Customs Enforcement (ICE).

Introduction 1565-A, sponsored by Council Member Daniel Dromm, would require the Department of Education (DOE) to annually distribute information related to students' and parents' educational rights and the DOE's policies and procedures related to interactions with non-local law enforcement.

Introduction 1568-A, sponsored by Council Member Rafael Espinal, would prohibit the use of City resources to support the enforcement of civil immigration laws and laws that penalize a person's presence, entry, or reentry into the U.S. Under the bill, City employees would be banned from spending time or using City property to support such immigration enforcement.

Introduction 1569-A, sponsored by Council Member Vanessa Gibson, would create an alternative to the State's "disorderly conduct" statute which would have a maximum punishment of 5 days.

Introduction 1644-A, sponsored by Council Member Donovan Richards, would create an Office of Alternative Energy which would be responsible for (1) establishing a program to assist with and streamline review of alternative energy projects and (2) coordinating with other agencies to ensure that policies are in place encouraging the installation and maintenance of alternative energy projects.

Introduction 1652-A, sponsored by Council Member Rafael Espinal, would repeal the Cabaret Law. Establishments previously required to be licensed as a cabaret must continue to abide by requirements: 1) to install and maintain security cameras; and 2) if they employ security guards, to ensure such security guards are licensed pursuant to state law and to maintain a roster all employed security guards. The bill would also consolidate the enforcement of these security provisions under the NYPD.

Introduction 1724-A, sponsored by Speaker Melissa Mark-Viverito, would require that the Police Department provide applicants for firearm licenses and permits with a warning pertaining to the increased risk of death to self and others in households with firearms, including suicide, unintentional death to children and others and death during a domestic dispute.

Briefs

We're Open! NY State of Health Open Enrollment Period Begins

NY State of Health, the state's official health plan Marketplace, began its 5th Open Enrollment Period this week. Consumers can enroll in Qualified Health Plans now through January 31, 2018. New York State extended the enrollment deadline beyond the federal deadline of December 15th to give consumers more time to consider their health plan options and enroll.

Consumers can enroll in a health plan by:

- Calling the Customer Service Center at 1-855-355-5777.
- Logging onto the website at nystateofhealth.ny.gov.
- Meeting with an in-person assistor. Find an assistor [here](#).

Additional information regarding NY State of Health enrollment, reductions in the uninsured, health plan options and costs by region are included in the 2018 regional fact sheets which can be found at [here](#).

NY State of Health representatives will be available at many events across the state to educate New Yorkers about the Marketplace, and to enroll consumers in health plans. A list of locations is available on the [events map](#).

Consumers must enroll by December 15, 2017 for coverage beginning January 1, 2018. Enrollment in the Essential Plan, Medicaid and Child Health Plus is open all year.

Comptroller DiNapoli: Wall St. Profits on Pace to Beat 2016

Securities industry profits totaled \$12.3 billion in the first half of 2017, one-third higher than the \$9.3 billion earned in the same period last year, according to a report released this week by New York State Comptroller Thomas DiNapoli. Industry performance is traditionally measured by the pretax profits of the broker/dealer operations of New York Stock Exchange (NYSE) member firms. There are now about 130 firms.

In 2017, profits are being driven by higher revenues. Revenue from trading and underwriting rose 29 percent in the first half of the year on the strength of the financial markets, and revenue from wealth management was up 20 percent. The amount set aside by the industry for compensation in the first half of 2017 was almost 4 percent higher than one year earlier, which suggests bonuses could be higher than last year.

Racing & Wagering Chairs Asks for Review of New Casino's Performance

The Chairman of the State Assembly Racing & Wagering Committee called upon Comptroller Thomas DiNapoli to analyze the financial conditions of the state's newly licensed casinos. Citing failure of the three new upstate casinos to meet revenue projections, Assemblyman Gary Pretlow is concerned the new facilities in the Southern Tier, Finger Lakes and Schenectady may ultimately seek state help to improve their bottom lines.

"It is critically important that we have reliable and realistic long-term revenue projections — so we can prevent the recent gaming expansion from creating an arms race for more and more tax subsidies," Assemblyman Pretlow wrote in a letter October 25, according to published reports.

Excelsior Scholarship Application Reopens for Students Attending College This Spring

Applications to be Accepted Through December 4th

The Excelsior Scholarship application for students to attend SUNY or CUNY tuition free this spring semester opened this week and will be open until December 4th. Students who did not receive the Excelsior Scholarship this fall and who meet all eligibility requirements can apply. The application can be accessed at <https://www.hesc.ny.gov/excelsior/>.

For the 2017-18 academic year New Yorkers with household incomes up to \$100,000 are eligible, increasing to \$110,000 in 2018-19, and reaching \$125,000 in 2019-20. Students must be enrolled in college full-time and complete 30 credits per year in order to receive the funding. However, the program has built in flexibility so that any student facing hardship is able to pause and restart the program, and all recipients can take fewer credits one semester than another in completing 30 credits per year.

Coming Up

New York State

Thursday November 9th

To hear from stakeholders on the implementation of Plan 2014

Senate Standing Committee on Environmental Conservation, Wayne Central School District –
Performing Arts Center, 6200 Ontario Center Road, Ontario Center, 4 p.m.

New York City

Wednesday November 8th

Committee on Housing and Buildings, Council Chambers – City Hall, 10 a.m.

Disclaimer: The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information contained herein, does not necessarily reflect the opinions of Pitta Bishop & Del Giorno LLC, or any of its members or employees or its clients. Neither Pitta Bishop & Del Giorno LLC, nor its members or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop & Del Giorno LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at tcosgrove@pittabishop.com or at (518) 449-3320.

To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

This Week in New York is a publication of Pitta Bishop & Del Giorno LLC.

120 Broadway, 28th Floor
New York, New York 10271
Telephone (212) 652-3890
Facsimile (212) 652-3891

111 Washington Avenue, St. 401
Albany, New York 12210
Telephone (518) 449-3320
Facsimile (518) 449-5812

25 Hyatt Street, St. 202
Staten Island, New York 10301
Telephone (718) 943-1050
Facsimile (718) 943-1051