



Rep. Arthur Turner

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1 AMENDMENT TO HOUSE BILL 2774

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2774 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Right  
5 to Know Act.

6 Section 5. Findings and purpose.

7 The General Assembly hereby finds and declares that the  
8 right to privacy is a personal and fundamental right protected  
9 by the United States Constitution. As such, all individuals  
10 have a right to privacy in information pertaining to them. This  
11 State recognizes the importance of providing consumers with  
12 transparency about how their personal information, especially  
13 information relating to their children, is shared by  
14 businesses. This transparency is crucial for Illinois citizens  
15 to protect themselves and their families from cyber-crimes and  
16 identity thieves. Furthermore, for free market forces to have a

1 role in shaping the privacy practices and for "opt-in" and  
2 "opt-out" remedies to be effective, consumers must be more than  
3 vaguely informed that a business might share personal  
4 information with third parties. Consumers must be better  
5 informed about what kinds of personal information are shared  
6 with other businesses. With these specifics, consumers can  
7 knowledgeably choose to opt-in, opt-out, or choose among  
8 businesses that disclose information to third parties on the  
9 basis of how protective the business is of consumers' privacy.

10 Businesses are now collecting personal information and  
11 sharing and selling it in ways not contemplated or properly  
12 covered by the current law. Some websites are installing  
13 tracking tools that record when consumers visit web pages, and  
14 sending very personal information, such as age, gender, race,  
15 income, health concerns, religion, and recent purchases to  
16 third party marketers and data brokers. Third party data broker  
17 companies are buying, selling, and trading personal  
18 information obtained from mobile phones, financial  
19 institutions, social media sites, and other online and brick  
20 and mortar companies. Some mobile applications are sharing  
21 personal information, such as location information, unique  
22 phone identification numbers, and age, gender, and other  
23 personal details with third party companies. As such, consumers  
24 need to know the ways that their personal information is being  
25 collected by companies and then shared or sold to third parties  
26 in order to properly protect their privacy, personal safety,

1 and financial security.

2 Section 10. Definitions. As used in this Act:

3 "Categories of personal information" includes, but is not  
4 limited to, the following:

5 (a) Identity information including, but not limited  
6 to, real name, alias, nickname, and user name.

7 (b) Address information, including, but not limited  
8 to, postal or e-mail.

9 (c) Telephone number.

10 (d) Account name.

11 (e) Social security number or other government-issued  
12 identification number, including, but not limited to,  
13 social security number, driver's license number,  
14 identification card number, and passport number.

15 (f) Birthdate or age.

16 (g) Physical characteristic information, including,  
17 but not limited to, height and weight.

18 (h) Sexual information, including, but not limited to,  
19 sexual orientation, sex, gender status, gender identity,  
20 and gender expression.

21 (i) Race or ethnicity.

22 (j) Religious affiliation or activity.

23 (k) Political affiliation or activity.

24 (l) Professional or employment-related information.

25 (m) Educational information.

1           (n) Medical information, including, but not limited  
2 to, medical conditions or drugs, therapies, mental health,  
3 or medical products or equipment used.

4           (o) Financial information, including, but not limited  
5 to, credit, debit, or account numbers, account balances,  
6 payment history, or information related to assets,  
7 liabilities, or general creditworthiness.

8           (p) Commercial information, including, but not limited  
9 to, records of property, products or services provided,  
10 obtained, or considered, or other purchasing or consumer  
11 histories or tendencies.

12           (q) Location information.

13           (r) Internet or mobile activity information,  
14 including, but not limited to, Internet protocol addresses  
15 or information concerning the access or use of any Internet  
16 or mobile-based site or service.

17           (s) Content, including text, photographs, audio or  
18 video recordings, or other material generated by or  
19 provided by the customer.

20           (t) Any of the above categories of information as they  
21 pertain to the children of the customer.

22           "Customer" means an individual residing in Illinois who  
23 provides, either knowingly or unknowingly, personal  
24 information to a private entity, with or without an exchange of  
25 consideration, in the course of purchasing, viewing,  
26 accessing, renting, leasing, or otherwise using real or

1 personal property, or any interest therein, or obtaining a  
2 product or service from the private entity, including  
3 advertising or any other content.

4 "Designated request address" means an e-mail address or  
5 toll-free telephone number whereby customers may request or  
6 obtain the information required to be provided under Section 15  
7 of this Act.

8 "Disclose" means to disclose, release, transfer, share,  
9 disseminate, make available, or otherwise communicate orally,  
10 in writing, or by electronic or any other means to any third  
11 party. "Disclose" does not include the following:

12 (a) Disclosure of personal information by a private  
13 entity to a third party under a written contract  
14 authorizing the third party to utilize the personal  
15 information to perform services on behalf of the private  
16 entity, including maintaining or servicing accounts,  
17 providing customer service, processing or fulfilling  
18 orders and transactions, verifying customer information,  
19 processing payments, providing financing, or similar  
20 services, but only if (i) the contract prohibits the third  
21 party from using the personal information for any reason  
22 other than performing the specified service or services on  
23 behalf of the private entity and from disclosing any such  
24 personal information to additional third parties; and (ii)  
25 the private entity effectively enforces these  
26 prohibitions.

1           (b) Disclosure of personal information by a business to  
2           a third party based on a good-faith belief that disclosure  
3           is required to comply with applicable law, regulation,  
4           legal process, or court order.

5           (c) Disclosure of personal information by a private  
6           entity to a third party that is reasonably necessary to  
7           address fraud, security, or technical issues; to protect  
8           the disclosing private entity's rights or property; or to  
9           protect customers or the public from illegal activities as  
10          required or permitted by law.

11          "Operator" means any person or entity that owns a website  
12          located on the Internet or an online service that collects and  
13          maintains personal information from a customer residing in  
14          Illinois who uses or visits the website or online service if  
15          the website or online service is operated for commercial  
16          purposes. It does not include any third party that operates,  
17          hosts, or manages, but does not own, a website or online  
18          service on the owner's behalf or by processing information on  
19          behalf of the owner.

20          "Personal information" means any information that  
21          identifies, relates to, describes, or is capable of being  
22          associated with, a particular individual, including, but not  
23          limited to, his or her name, signature, physical  
24          characteristics or description, address, telephone number,  
25          passport number, driver's license or State identification card  
26          number, insurance policy number, education, employment,

1 employment history, bank account number, credit card number,  
2 debit card number, or any other financial information.  
3 "Personal information" also means any data or information  
4 pertaining to an individual's income, assets, liabilities,  
5 purchases, leases, or rentals of goods, services, or real  
6 property, if that information is disclosed, or is intended to  
7 be disclosed, with any identifying information, such as the  
8 individual's name, address, telephone number, or social  
9 security number.

10 "Third party" or "third parties" means (i) a private entity  
11 that is a separate legal entity from the private entity that  
12 has disclosed personal information; (ii) a private entity that  
13 does not share common ownership or common corporate control  
14 with the private entity that has disclosed personal  
15 information; or (iii) a private entity that does not share a  
16 brand name or common branding with the private entity that has  
17 disclosed personal information such that the affiliate  
18 relationship is clear to the customer.

19 Section 15. Notification of information sharing practices.  
20 An operator of a commercial website or online service that  
21 collects personal information through the Internet about  
22 individual customers residing in Illinois who use or visit its  
23 commercial website or online service shall, in its customer  
24 agreement or incorporated addendum: (i) identify all  
25 categories of personal information that the operator collects

1 through the website or online service about individual  
2 customers who use or visit its commercial website or online  
3 service; (ii) identify all categories of third party persons or  
4 entities with whom the operator may disclose that personal  
5 information; and (iii) provide a description of a customer's  
6 rights, as required under Section 25 of this Act, accompanied  
7 by one or more designated request addresses.

8 Section 20. Disclosure of a customer's personal  
9 information to a third party.

10 (a) An operator that discloses a customer's personal  
11 information to a third party shall make the following  
12 information available to the customer free of charge:

13 (1) all categories of personal information that were  
14 disclosed; and

15 (2) the names of all third parties that received the  
16 customer's personal information.

17 (b) This Section applies only to personal information  
18 disclosed after the effective date of this Act.

19 Section 25. Information availability service.

20 (a) An operator required to comply with Section 20 shall  
21 make the required information available by providing a  
22 designated request address in its customer agreement or  
23 incorporated addendum, and, upon receipt of a request under  
24 this Section, shall provide the customer with the information



1 required under Section 20 for all disclosures occurring in the  
2 prior 12 months.

3 (b) An operator that receives a request from a customer  
4 under this Section at one of the designated addresses shall  
5 provide a response to the customer within 30 days.

6 (c) The parent or legal guardian of a customer under the  
7 age of 18 may submit a request under this Section on behalf of  
8 that customer.

9 (d) An operator shall not be required to respond to a  
10 request made by the same customer more than once within a given  
11 12-month period.

12 Section 30. Right of action. Any person whose rights under  
13 this Act are violated shall have a right of action against an  
14 offending party, and shall recover: (i) liquidated damages of  
15 \$10 or actual damages, whichever is greater; (ii) injunctive  
16 relief, if appropriate; and (iii) reasonable attorneys' fees,  
17 costs, and expenses.

18 Section 35. Waivers; contracts. Any waiver of the  
19 provisions of this Act shall be void and unenforceable. Any  
20 agreement that does not comply with the applicable provisions  
21 of this Act shall be void and unenforceable.

22 Section 40. Construction.

23 (a) Nothing in this Act shall be construed to conflict with

1 the federal Health Insurance Portability and Accountability  
2 Act of 1996 and the rules promulgated under that Act.

3 (b) Nothing in this Act shall be deemed to apply in any  
4 manner to a financial institution or an affiliate of a  
5 financial institution that is subject to Title V of the federal  
6 Gramm-Leach-Bliley Act of 1999 and the rules promulgated under  
7 that Act.

8 (c) Nothing in this Act shall be deemed to apply to the  
9 activities of an individual or entity to the extent that those  
10 activities are subject to Section 222 or 631 of the federal  
11 Communications Act of 1934.

12 (d) Nothing in this Act shall be construed to apply to a  
13 contractor, subcontractor, or agent of a State agency or local  
14 unit of government when working for that State agency or local  
15 unit of government."