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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. Violation; right of action. A violation of this
13 Act constitutes a violation of the Consumer Fraud and Deceptive
14 Business Practices Act. Any person whose rights under this Act
15 are violated shall also have, in addition to any rights under
16 the Consumer Fraud and Deceptive Business Practices Act, a
17 right of action against an offending party to seek injunctive
18 relief, if appropriate.

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

23 Section 40. Construction.

1 (a) Nothing in this Act shall be construed to conflict with
2 the federal Health Insurance Portability and Accountability
3 Act of 1996 and the rules promulgated under that Act.

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

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

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