



Rep. Arthur Turner

**Filed: 4/4/2017**

10000HB2774ham004

LRB100 08020 RJF 24758 a

1 AMENDMENT TO HOUSE BILL 2774

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

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

7 Section 5. Findings and purpose.

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

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

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

1 in order to properly protect their privacy, personal safety,  
2 and financial security.

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

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

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

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

10 (c) Telephone number.

11 (d) Account name.

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

16 (f) Birthdate or age.

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

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

22 (i) Race or ethnicity.

23 (j) Religious affiliation or activity.

24 (k) Political affiliation or activity.

25 (l) Professional or employment-related information.

1 (m) Educational information.

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

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

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

13 (q) Location information.

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

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

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

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

1 accessing, renting, leasing, or otherwise using real or  
2 personal property, or any interest therein, or obtaining a  
3 product or service from the private entity, including  
4 advertising or any other content.

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

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

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

1 prohibitions.

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

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

12 "Operator" means any person or entity that owns a website  
13 located on the Internet or an online service that collects and  
14 maintains personal information from a customer residing in  
15 Illinois who uses or visits the website or online service if  
16 the website or online service is operated for commercial  
17 purposes. "Operator" does not include businesses having 5 or  
18 fewer employees or any third party that operates, hosts, or  
19 manages, but does not own, a website or online service on the  
20 owner's behalf or by processing information on behalf of the  
21 owner.

22 "Personal information" means any information that  
23 identifies, relates to, describes, or is capable of being  
24 associated with, a particular individual, including, but not  
25 limited to, his or her name, signature, physical  
26 characteristics or description, address, telephone number,

1 passport number, driver's license or State identification card  
2 number, insurance policy number, education, employment,  
3 employment history, bank account number, credit card number,  
4 debit card number, or any other financial information.

5 "Personal information" also means any data or information  
6 pertaining to an individual's income, assets, liabilities,  
7 purchases, leases, or rentals of goods, services, or real  
8 property, if that information is disclosed, or is intended to  
9 be disclosed, with any identifying information, such as the  
10 individual's name, address, telephone number, or social  
11 security number.

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

21 Section 15. Notification of information sharing practices.  
22 An operator of a commercial website or online service that  
23 collects personal information through the Internet about  
24 individual customers residing in Illinois who use or visit its  
25 commercial website or online service shall, in its customer

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

10 Section 20. Disclosure of a customer's personal  
11 information to a third party.

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

15 (1) all categories of personal information that were  
16 disclosed; and

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

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

21 Section 25. Information availability service.

22 (a) An operator required to comply with Section 20 shall  
23 make the required information available by providing a  
24 designated request address in its customer agreement or



1 incorporated addendum, and, upon receipt of a request under  
2 this Section, shall provide the customer with the information  
3 required under Section 20 for all disclosures occurring in the  
4 prior 12 months.

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

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

11 (d) An operator shall not be required to respond to a  
12 request made by the same customer more than once within a given  
13 12-month period.

14 Section 30. Violation; right of action. A violation of this  
15 Act constitutes a violation of the Consumer Fraud and Deceptive  
16 Business Practices Act. Any lawsuits filed under the Consumer  
17 Fraud and Deceptive Business Practices Act for a violation of  
18 this Act shall only be filed by the Office of the Attorney  
19 General or the appropriate State's Attorney's Office on behalf  
20 of the plaintiff. On any award granted for a violation of this  
21 Act, the amount awarded shall be deposited into the  
22 Cyber-secure Illinois Educational Advancement Fund created by  
23 this Act. Any operator bound to the requirements of this Act  
24 that makes a good faith effort to respond to a customer's  
25 request for information under Section 25 shall not be liable

1 for a violation of this Act. Any person whose rights under this  
2 Act are violated shall also have, in addition to any rights  
3 under the Consumer Fraud and Deceptive Business Practices Act,  
4 a right of action against an offending party to seek injunctive  
5 relief, if appropriate. Nothing in this Section shall prevent a  
6 person from seeking a right of action for a violation of the  
7 Biometric Information Privacy Act or otherwise seeking relief  
8 under the Code of Civil Procedure.

9 Section 35. The Cyber-secure Illinois Educational  
10 Advancement Fund. The Cyber-secure Illinois Educational  
11 Advancement Fund is created as a special fund in the State  
12 Treasury. All moneys in the Fund shall be appropriated for the  
13 public interest by the State of Illinois university system to  
14 fund the enhancement and creation of partnerships between  
15 employers, schools, and community organizations that focus on  
16 cyber security skill shortages and the education of the next  
17 generation of cyber security experts in the State of Illinois.

18 Section 40. 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 45. 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 any  
13 State agency, federal agency, unit of local government, or any  
14 contractor, subcontractor, or agent thereof, when working for  
15 that State agency, federal agency, or unit of local government.

16 (e) Nothing in this Act shall be construed to apply to any  
17 entity recognized as a tax-exempt organization under 501(c)(3)  
18 or 501(c)(4) of the Internal Revenue Code of 1986.

19 (f) Nothing in this Act shall be construed to apply to a  
20 public utility, an alternative retail electric supplier, or an  
21 alternative gas supplier, as those terms are defined in  
22 Sections 3-105, 16-102, and 19-105 of the Public Utilities Act.

23 Section 100. The State Finance Act is amended by adding  
24 Section 5.878 as follows:

1 (30 ILCS 105/5.878 new)

2 Sec. 5.878. The Cyber-secure Illinois Educational

3 Advancement Fund."