



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 1502

2 AMENDMENT NO. _____. Amend Senate Bill 1502, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Illinois Right to Know Data Transparency and Privacy Protection
7 Act.

8 Section 5. Findings and purpose.

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

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

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

1 collected by companies and then shared or sold to third parties
2 in order to properly protect their privacy, personal safety,
3 and financial security.

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

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

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

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

11 (c) Telephone number.

12 (d) Account name.

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

17 (f) Birthdate or age.

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

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

23 (i) Race or ethnicity.

24 (j) Religious affiliation or activity.

25 (k) Political affiliation or activity.

1 (l) Professional or employment-related information.

2 (m) Educational information.

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

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

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

14 (q) Location information.

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

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

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

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

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

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

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

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

1 the private entity effectively enforces these
2 prohibitions.

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

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

13 "Operator" means any person or entity that owns a website
14 located on the Internet or an online service that collects and
15 maintains personal information from a customer residing in
16 Illinois who uses or visits the website or online service if
17 the website or online service is operated for commercial
18 purposes. "Operator" does not include businesses having 10 or
19 fewer employees or any third party that operates, hosts, or
20 manages, but does not own, a website or online service on the
21 owner's behalf or by processing information on behalf of the
22 owner.

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

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

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

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

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

1 commercial website or online service shall, in its customer
2 agreement or incorporated addendum or in another conspicuous
3 location on its website or online service platform where
4 similar notices are customarily posted: (i) identify all
5 categories of personal information that the operator collects
6 through the website or online service about individual
7 customers who use or visit its commercial website or online
8 service; and (ii) provide a description of a customer's rights,
9 as required under Section 25 of this Act, accompanied by one or
10 more designated request addresses.

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

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

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

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

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

22 Section 25. Information availability service.

23 (a) An operator required to comply with Section 20 shall
24 make the required information available by providing a

1 designated request address in its customer agreement or
2 incorporated addendum or in another conspicuous location on its
3 website or online service platform where similar notices are
4 customarily posted, and, upon receipt of a request under this
5 Section, shall provide the customer with the information
6 required under Section 20 for all disclosures occurring in the
7 prior 12 months.

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

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

14 (d) Notwithstanding the provisions of this Section, a
15 parent or legal guardian of a customer under the age of 18 may
16 submit a request under this section on behalf of that customer.
17 An operator shall not be required to respond to a request made
18 by the same parent or legal guardian on behalf of a customer
19 under the age of 18 more than once within a given 12-month
20 period.

21 Section 30. Violation. A violation of this Act constitutes
22 a violation of the Consumer Fraud and Deceptive Business
23 Practices Act. The Office of the Attorney General or the
24 appropriate State's Attorney's Office shall have sole
25 enforcement authority of the provisions of this Act and may

1 enforce a violation of this Act as an unlawful practice under
2 the Consumer Fraud and Deceptive Business Practices Act.
3 Nothing in this Section shall prevent a person from seeking a
4 right of action for a violation of the Biometric Information
5 Privacy Act or otherwise seeking relief under the Code of Civil
6 Procedure.

7 Section 35. Waivers; contracts. Any waiver of the
8 provisions of this Act shall be void and unenforceable. Any
9 agreement that does not comply with the applicable provisions
10 of this Act shall be void and unenforceable.

11 Section 40. Construction.

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

15 (b) Nothing in this Act shall be deemed to apply in any
16 manner to a financial institution or an affiliate of a
17 financial institution that is subject to Title V of the federal
18 Gramm-Leach-Bliley Act of 1999 and the rules promulgated under
19 that Act.

20 (c) Nothing in this Act shall be construed to apply to any
21 State agency, federal agency, unit of local government, or any
22 contractor, subcontractor, or agent thereof, when working for
23 that State agency, federal agency, or unit of local government.

24 (d) Nothing in this Act shall be construed to apply to any

1 entity recognized as a tax-exempt organization under 501(c)(3)
2 or 501(c)(4) of the Internal Revenue Code of 1986.

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