



Rep. Arthur Turner

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LRB101 11183 JLS 58340 a

1 AMENDMENT TO HOUSE BILL 3357

2 AMENDMENT NO. _____. Amend House Bill 3357 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Data
5 Transparency and Privacy Act.

6 Section 5. Legislative findings. The General Assembly
7 hereby finds and declares that:

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

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

11 (3) 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
18 broker 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.

25 (4) As such, consumers need to know the ways that their
26 personal information is being collected by companies and then

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

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

4 "Consumer" means an individual residing in this State who
5 provides, either knowingly or unknowingly, personal
6 information to an operator, with or without an exchange of
7 consideration, in the course of purchasing, viewing,
8 accessing, renting, leasing, or otherwise using real or
9 personal property, or any interest therein, or obtaining a
10 product or service from the private entity, including
11 advertising or any other content.

12 "Designated request address" means an electronic email
13 address, online form, or toll-free telephone number that a
14 consumer may use to request the information required to be
15 provided pursuant to this Act.

16 "Disclose" means to disclose, release, transfer, share,
17 disseminate, make available, sell, or otherwise communicate
18 orally, in writing, or by electronic or any other means to any
19 third party.

20 "Disclose" does not include the disclosure of personal
21 information by a private entity to a third party under a
22 written contract authorizing the third party to utilize the
23 personal information for the limited purposes of performing
24 services on behalf of the private entity, including maintaining
25 or servicing accounts, disclosure of personal information by a

1 private entity to a transportation network company driver
2 providing consumer service, processing or fulfilling orders
3 and transactions, verifying consumer information, processing
4 payments, providing financing, or similar services, but only
5 if:

6 (1) the contract prohibits the third party or
7 transportation network company driver from using the
8 personal information for any reason other than performing
9 the specified service or services on behalf of the private
10 entity and from disclosing any such personal information to
11 additional third parties; and

12 (2) disclosure of personal information by a business to
13 a third party based on a good-faith belief that disclosure
14 is required to comply with applicable law, regulation,
15 legal process, or court order.

16 "Disclose" does not include disclosure of personal
17 information by a private entity to a third party that is
18 reasonably necessary to address fraud, security, or technical
19 issues; to protect the disclosing private entity's rights or
20 property; or to protect consumers or the public from illegal
21 activities as required or permitted by law.

22 "Operator" means any private entity that owns an Internet
23 website or an online service that collects, maintains, or
24 discloses personal information of a consumer residing in this
25 State who uses or visits the website or online service if the
26 website or online service is operated for commercial purposes.

1 It does not include any third party that operates, hosts, or
2 manages, but does not own, a website or online service on the
3 owner's behalf or by processing information on behalf of the
4 owner.

5 "Personal information" means any information that
6 identifies, relates to, describes, or is capable of being
7 associated with, or could reasonably be linked, directly or
8 indirectly, with a particular consumer or household,
9 including, but not limited to identifiers such as a real name,
10 alias, signature, physical characteristics or description,
11 address, telephone number, passport number, driver's license
12 or State identification card number, insurance policy number,
13 education, employment, employment history, bank account
14 number, credit card number, debit card number, or any other
15 financial information, unique personal identifier, Internet
16 Protocol address, geolocation, biometric information, audio,
17 visual, thermal, olfactory, or similar information.

18 "Personal information" also means professional or
19 employment-related information, education information, defined
20 as information that is not publicly available personally
21 identifiable information as defined in the Family Educational
22 Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR 99) records
23 of income, assets, liabilities, purchases, leases, products or
24 services purchases, obtained, or considered, or other
25 purchasing or consuming histories or tendencies, or real
26 property.

1 "Private entity" means a sole proprietorship, partnership,
2 limited liability company, corporation, association, or other
3 legal entity that is organized or operated for the profit or
4 financial benefit of its shareholders or other owners, that
5 does business in the State of Illinois, and that satisfies one
6 or more of the following thresholds:

7 (1) Has annual gross revenues in excess of \$25,000,000,
8 as adjusted in January of every odd-numbered year to
9 reflect any increase in the Consumer Price Index.

10 (2) Annually buys, receives for the business'
11 commercial purposes, sells, or shares for commercial
12 purposes, alone or in combination, the personal
13 information of 50,000 or more consumers, households, or
14 devices.

15 (3) Derives 50% or more of its annual revenues from
16 selling consumers' personal information.

17 "Process" or "processes" means any collection, use,
18 storage, disclosure, analysis, deletion, or modification of
19 personal information.

20 "Third party" means:

21 (1) a private entity that is a separate legal entity
22 from the private entity that has disclosed personal
23 information;

24 (2) a private entity that does not share common
25 ownership or common corporate control with the private
26 entity that has disclosed personal information; or

1 (3) a private entity that does not share a brand name
2 or common branding with the private entity that has
3 disclosed personal information such that the affiliate
4 relationship is clear to the consumer.

5 "Sell" means selling, renting, releasing, disclosing,
6 disseminating, making available, transferring, or otherwise
7 communicating orally, in writing, or by electronic or other
8 means, a consumer's personal information by the business to
9 another business or a third party for monetary or other
10 valuable consideration.

11 "Unique identifier" means a persistent identifier that can
12 be used to recognize a consumer, a family, or a device that is
13 linked to a consumer or family, over time and across different
14 services, including, but not limited to, a device identifier;
15 an Internet Protocol address; cookies, beacons, pixel tags,
16 mobile ad identifiers, or similar technology; consumer number,
17 unique pseudonym, or user alias; telephone numbers, or other
18 forms of persistent or probabilistic identifiers that can be
19 used to identify a particular consumer or device. For purposes
20 of this definition, "family" means a custodial parent or
21 guardian and any minor children over which the parent or
22 guardian has custody.

23 "Verified request" means the process through which a
24 consumer may submit a request to exercise a right or rights set
25 forth in this Act and by which an operator can reasonably
26 authenticate the request.

1 Section 15. Right to transparency. An operator that
2 collects personal information through the Internet about
3 individual consumers who use or visit its online service, in
4 its consumer service agreement or incorporated addendum or any
5 other similar and readily available mechanism accessible to the
6 consumer, shall:

7 (1) identify all categories of personal information
8 that the operator processes about individual consumers
9 collected through its Internet website or online service;

10 (2) identify all categories of third parties with whom
11 the operator may disclose that personal information;

12 (3) disclose whether a third party may collect personal
13 information about an individual consumer's online
14 activities over time and across different Internet
15 websites or online services when the consumer uses the
16 Internet website or online service of the operator;

17 (4) provide a description of the process, if any such
18 process exists, for an individual consumer who uses or
19 visits the Internet website or online service to review and
20 request changes to inaccurate personal information that is
21 collected by the operator as a result of the consumer's use
22 or visits to the Internet website or online service;

23 (5) describe the process by which the operator notifies
24 consumers who use or visit its Internet website or online
25 service of material changes to the notice required to be

1 made available under this Section;

2 (6) state the effective date of the notice;

3 (7) provide a description of a consumer's rights, as
4 required by this Act, accompanied by one or more designated
5 request addresses.

6 Section 20. Right to know.

7 (a) An operator that discloses personal information to a
8 third party shall make the following information available to a
9 consumer upon request free of charge:

10 (1) the categories of personal information that were
11 disclosed about the consumer and the name or names of all
12 third parties that received the consumer's personal
13 information; or

14 (2) all categories of personal information about
15 consumers that were disclosed and the name or names of all
16 third parties that received any consumer's personal
17 information.

18 (b) Notwithstanding the provisions of this Section, a
19 parent or legal guardian of a consumer under the age of 18 may
20 submit a verified request under this Section on behalf of that
21 consumer.

22 (c) This Section applies only to personal information
23 disclosed after the effective date of this Act.

24 Section 25. Right to opt out. An operator that sells the

1 personal information of a consumer collected through the
2 consumer's use of or visit to the operator's Internet website
3 or online service shall clearly and conspicuously post, on its
4 Internet website or online service or in another prominently
5 and easily accessible location the operator maintains for
6 consumer privacy settings, a link to an Internet web page
7 maintained by the operator that enables a consumer, by verified
8 request through a designated request address, to opt out of the
9 sale of the consumer's personal information to third parties.
10 The method by which a consumer may opt out shall be in a form
11 and manner determined by the operator but should not be overly
12 burdensome and shall require a consumer to establish an account
13 with the operator in order to opt out of the sale of a
14 consumer's personal information.

15 Section 30. Response to verified requests.

16 (a) An operator that receives a verified request from a
17 consumer through a designated request address under this Act
18 shall provide a response to the consumer within 45 days of the
19 request.

20 (b) An operator shall not be required to respond to a
21 request made by the same consumer or made by the same parent or
22 legal guardian on behalf of a consumer under the age of 18 more
23 than once in any 12-month period.

24 Section 35. Violations. The Attorney General or State's

1 Attorney shall have exclusive authority to enforce this Act. It
2 is a violation of the Consumer Fraud and Deceptive Business
3 Practices Act for an operator to fail to comply with any
4 requirements of this Act. Nothing in this Act shall be
5 construed to modify, limit, or supersede the operation of any
6 privacy or security provision in any other Illinois law, or
7 from otherwise seeking relief under the Code of Civil
8 Procedure.

9 Section 40. Waivers; contracts. Any waiver of the
10 provisions of this Act is void and unenforceable. Any agreement
11 that does not comply with the applicable provisions of this Act
12 is void and unenforceable.

13 Section 45. Construction.

14 (a) The obligations imposed on operators by this Act shall
15 not restrict an operator's ability to:

16 (1) Comply with federal, state, or local laws.

17 (2) Comply with a civil, criminal, or regulatory
18 inquiry, investigation, subpoena, or summons by federal,
19 state, or local authorities.

20 (3) Cooperate with law enforcement agencies concerning
21 conduct or activity that the business, service provider, or
22 third party reasonably and in good faith believes may
23 violate federal, state, or local law.

24 (4) Exercise or defend legal claims.

1 (b) 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 (c) 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 (d) Nothing in this Act shall be construed to apply to a
10 contractor, subcontractor, or agent of a State agency or local
11 unit of government when working for that State agency or local
12 unit of government.

13 (e) Nothing in this Act shall be construed to apply to: (i)
14 Internet, wireless, or telecommunications service providers;
15 or (ii) a public utility, an alternative retail electric
16 supplier, or an alternative gas supplier, as those terms are
17 defined in Sections 3-105, 16-102, and 19-105 of the Public
18 Utilities Act, or an electric cooperative, as defined in
19 Section 3.4 of the Electric Supplier Act.

20 (f) Nothing in this Act shall be construed to apply to: (i)
21 a hospital operated under the Hospital Licensing Act; (ii) a
22 hospital affiliate, as defined under the Hospital Licensing
23 Act; or (iii) a hospital operated under the University of
24 Illinois Hospital Act.

25 (g) Nothing in this Act shall restrict a business' ability
26 to collect or disclose a consumer's personal information if a

1 consumer's conduct takes place wholly outside of Illinois. For
2 purposes of this Act, conduct takes place wholly outside of
3 Illinois if the business collected that information while the
4 consumer was outside of Illinois, no part of the sale of the
5 consumer's personal information occurred in Illinois, and no
6 personal information collected while the consumer was in
7 Illinois is disclosed.

8 Section 91. The Consumer Fraud and Deceptive Business
9 Practices Act is amended by changing Section 2Z as follows:

10 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

11 Sec. 2Z. Violations of other Acts. Any person who knowingly
12 violates the Automotive Repair Act, the Automotive Collision
13 Repair Act, the Home Repair and Remodeling Act, the Dance
14 Studio Act, the Data Transparency and Privacy Act, the Physical
15 Fitness Services Act, the Hearing Instrument Consumer
16 Protection Act, the Illinois Union Label Act, the Installment
17 Sales Contract Act, the Job Referral and Job Listing Services
18 Consumer Protection Act, the Travel Promotion Consumer
19 Protection Act, the Credit Services Organizations Act, the
20 Automatic Telephone Dialers Act, the Pay-Per-Call Services
21 Consumer Protection Act, the Telephone Solicitations Act, the
22 Illinois Funeral or Burial Funds Act, the Cemetery Oversight
23 Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the
24 Illinois Pre-Need Cemetery Sales Act, the High Risk Home Loan

1 Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act,
2 subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act,
3 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax
4 Act, the Electronic Mail Act, the Internet Caller
5 Identification Act, paragraph (6) of subsection (k) of Section
6 6-305 of the Illinois Vehicle Code, Section 11-1431, 18d-115,
7 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the Illinois
8 Vehicle Code, Article 3 of the Residential Real Property
9 Disclosure Act, the Automatic Contract Renewal Act, the Reverse
10 Mortgage Act, Section 25 of the Youth Mental Health Protection
11 Act, the Personal Information Protection Act, or the Student
12 Online Personal Protection Act commits an unlawful practice
13 within the meaning of this Act.

14 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
15 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
16 100-863, eff. 8-14-18.)

17 Section 99. Effective date. This Act takes effect April 1,
18 2020."