

JAN 18 2013

S.B. NO. 729

A BILL FOR AN ACT

RELATING TO THE INTERNET PRIVACY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 481B, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . INTERNET PRIVACY REQUIREMENTS

5 §481B-A Definitions. For the purposes of this part, the
6 following definitions shall apply:

7 "Conspicuously post" means to post a privacy policy using
8 any of the following methods:

- 9 (1) A webpage upon which the actual privacy policy is
10 posted if the webpage is the homepage or first
11 significant page after entering the website;
- 12 (2) An icon that hyperlinks to a webpage on which the
13 actual privacy policy is posted, if the icon is
14 located on the homepage or the first significant page
15 after entering the website and if the icon contains
16 the word "privacy". The icon shall also use a color
17 that contrasts with the background color of the
18 webpage or is otherwise distinguishable;



1 (3) A text link that hyperlinks to a webpage on which the
2 actual privacy policy is posted, if the text link is
3 located on the homepage or first significant page
4 after entering the website and if the text link does
5 one of the following:

- 6 (A) Includes the word "privacy";
- 7 (B) Is written in capital letters equal to or greater
8 in size than the surrounding text; and
- 9 (C) Is written in larger type than the surrounding
10 text, or in contrasting type, font, or color to
11 the surrounding text of the same size, or set off
12 from the surrounding text of the same size by
13 symbols or other marks that call attention to the
14 language; or

15 (4) Any other functional hyperlink that is so displayed
16 that a reasonable person would notice it.

17 "Consumer" means any individual who seeks or acquires, by
18 purchase or lease, any goods, services, money, or credit for
19 personal, family, or household purposes.

20 "Operator" means any person or entity that owns a website
21 located on the Internet or an online service that collects and
22 maintains personally identifiable information from a consumer



1 residing in the State who uses or visits the website or online
2 service if the website or online service is operated for
3 commercial purposes. The term "operator" shall not include any
4 third party that operates, hosts, or manages, but does not own,
5 a website or online service on the owner's behalf or by
6 processing information on behalf of the owner.

7 "Personally identifiable information" means individually
8 identifiable information about an individual consumer collected
9 online by the operator from that individual and maintained by
10 the operator in an accessible form, including any of the
11 following:

- 12 (1) A first and last name;
- 13 (2) A home or other physical address, including street
14 name and name of a city or town;
- 15 (3) An e-mail address;
- 16 (4) A telephone number;
- 17 (5) A social security number;
- 18 (6) Any other identifier that permits the physical or
19 online contacting of a specific individual; or
- 20 (7) Information concerning a user that the website or
21 online service collects online from the user and



1 maintains in personally identifiable form in
2 combination with an identifier described in this part.

3 **§481B-B Internet privacy.** (a) An operator of a commercial
4 website or online service that collects personally identifiable
5 information through the Internet about individual consumers
6 residing in the State who use or visit its commercial website or
7 online service shall conspicuously post its privacy policy on
8 its website or, in the case of an operator of an online service,
9 make that privacy policy available in accordance with any other
10 reasonably accessible means of making the privacy policy
11 available for consumers of the online service.

12 (b) The privacy policy under subsection (a) shall require
13 the operator to do all of the following:

14 (1) Identify the categories of personally identifiable
15 information that the operator collects through the
16 website or online service about individual consumers
17 who use or visit its commercial website or online
18 service and the categories of third-party persons or
19 entities with whom the operator may share that
20 personally identifiable information;

21 (2) If the operator maintains a process for an individual
22 consumer who uses or visits its commercial website or



1 online service to review and request changes to any of
 2 the individual consumer's personally identifiable
 3 information that is collected through the website or
 4 online service, provide a description of that process;

5 (3) Describe the process by which the operator notifies
 6 consumers who use or visit its commercial website or
 7 online service of material changes to the operator's
 8 privacy policy for that website or online service; and

9 (4) Identify the effective date of the operator's privacy
 10 policy.

11 **§481B-C Violation.** An operator shall not be deemed in
 12 violation of this part unless the operator fails to post its
 13 policy within thirty days after being notified of noncompliance.
 14 An operator who violates this part shall be guilty of a
 15 violation under section 480-2."

16 SECTION 2. In codifying the new sections added by section
 17 1 of this Act, the revisor of statutes shall substitute
 18 appropriate section numbers for the letters used in designating
 19 the new sections in this Act.

20 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *[Signature]*
[Signature]

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Randy de Paul
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S.B. NO. 729

Report Title:

Internet; Privacy

Description:

Requires operators of commercial websites or online services that collect personally identifiable information through the Internet about consumers in the State who use the websites or online services to conspicuously post their privacy policies on their websites or through any other reasonably accessible means.

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