

JAN 17 2020

A BILL FOR AN ACT

RELATING TO PERSONAL INFORMATION.

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

1 SECTION 1. Chapter 487J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§487J- Use of personal information; written consent;
5 third parties; opt out. (a) A third party shall not use or
6 sell personal information about a consumer that has been sold to
7 the third party by a business unless the consumer has received
8 explicit notice, provides express written consent, and is
9 provided an opportunity to exercise the right to opt out
10 pursuant to subsection (b).

11 (b) A consumer shall have the right, at any time, to
12 direct a business that sells personal information about the
13 consumer to third parties not to sell the consumer's personal
14 information. This right may be referred to as the right to opt
15 out.

16 (c) A business that sells consumers' personal information
17 to third parties shall provide notice to consumers that the



1 information may be sold and that consumers have the right to opt
2 out of the sale of their personal information.

3 (d) A business that has received direction from a consumer
4 not to sell the consumer's personal information or, in the case
5 of a minor consumer's personal information, has not received
6 consent to sell the minor consumer's personal information shall
7 be prohibited from selling the consumer's personal information
8 after its receipt of the consumer's direction, unless the
9 consumer subsequently provides express authorization for the
10 sale of the consumer's personal information.

11 (e) Notwithstanding subsection (a), a business shall not
12 sell the personal information of consumers if the business has
13 actual knowledge that the consumer is less than sixteen years of
14 age, unless the consumer, in the case of consumers between
15 thirteen and sixteen years of age, or the consumer's parent or
16 guardian in the case of consumers who are less than thirteen
17 years of age, has affirmatively authorized the sale of the
18 consumer's personal information. A business that wilfully
19 disregards the consumer's age shall be deemed to have actual
20 knowledge of the consumer's age. This right may be referred to
21 as the right to opt in.



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- 1 (f) A business that is required to comply with this
2 section shall, in a form that is reasonably accessible to
3 consumers:
- 4 (1) Provide a clear and conspicuous link on the business'
5 Internet homepage, titled "Do Not Sell My Personal
6 Information", to an Internet webpage that enables a
7 consumer or a person authorized by the consumer to opt
8 out of the sale of the consumer's personal
9 information. A business shall not require a consumer
10 to create an account in order to direct the business
11 not to sell the consumer's information;
- 12 (2) Ensure that all individuals responsible for handling
13 consumer inquiries about the business's privacy
14 practices or the business's compliance with this
15 section are informed of all requirements of this
16 section and how to direct consumers to exercise their
17 rights;
- 18 (3) For consumers who exercise their right to opt out of
19 the sale of their personal information, refrain from
20 selling personal information collected by the business
21 about the consumer;



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1 (4) For a consumer who has opted out of the sale of the
2 consumer's personal information, respect the
3 consumer's decision to opt out for at least twelve
4 months before requesting that the consumer authorize
5 the sale of the consumer's personal information; and

6 (5) Use any personal information collected from the
7 consumer in connection with the submission of the
8 consumer's opt-out request solely for the purposes of
9 complying with the opt-out request.

10 (g) Nothing in this section shall be construed to require
11 a business to comply with this section by including the required
12 links and text on the homepage that the business makes available
13 to the public generally; provided that the business maintains a
14 separate and additional homepage that is dedicated to Hawaii
15 consumers and includes the required links and text; provided
16 further that the business takes reasonable steps to ensure that
17 Hawaii consumers are directed to the homepage for Hawaii
18 consumers and not the homepage made available to the public
19 generally.

20 (h) A consumer may authorize another person solely to opt
21 out of the sale of the consumer's personal information on the



1 consumer's behalf. A business shall comply with an opt out
2 request received from a person authorized by the consumer to act
3 on the consumer's behalf.

4 (i) For the purposes of this section, "third party" means
5 a person who is not any of the following:

6 (1) The business that collects personal information from
7 consumers under this section; or

8 (2) A person to whom the business discloses a consumer's
9 personal information for a business purpose pursuant
10 to a written contract; provided that the contract:

11 (A) Prohibits the person receiving the personal
12 information from:

13 (i) Selling the personal information;

14 (ii) Retaining, using, or disclosing the personal
15 information for any purpose other than for
16 the specific purpose of performing the
17 services specified in the contract,
18 including retaining, using, or disclosing
19 the personal information for a commercial
20 purpose other than providing the services
21 specified in the contract; or



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1 (iii) Retaining, using, or disclosing the
 2 information outside of the direct business
 3 relationship between the person and the
 4 business; and

5 (B) Includes a certification made by the person
 6 receiving the personal information that the
 7 person understands the restrictions under
 8 subparagraph (A) and will comply with them."

9 SECTION 2. New statutory material is underscored.

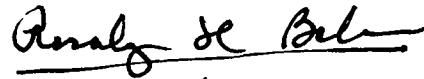
10 SECTION 3. This Act shall take effect upon its approval.

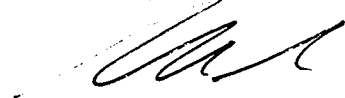
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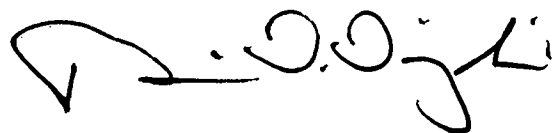
INTRODUCED BY: 













S.B. NO. 2451

Report Title:

Personal Electronic Data; Third Parties; Consent

Description:

Prohibits a third party from selling or using personal information about a consumer that has been sold to the third party by a business unless the consumer has received explicit notice, provides express written consent, and is provided an opportunity to exercise the right to opt out. Specifies notification requirements for businesses.

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