

March 12, 2019

To: Chair Williamson and Members of the House Committee on Judiciary  
From: Paloma Sparks, OBI  
RE: OBI Testimony in Opposition of HB 2866

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**Chair Williamson and Members of the Committee:**

Thank you for the opportunity to testify on this important issue for Oregon Business & Industry members. OBI is Oregon's most comprehensive business association representing approximately 1,600 businesses that employ nearly 330,000 people. We represent multiple sectors and serve as the state's Retail and Manufacturing Councils.

OBI is the State's Retail Council. The Council has over 200 members. Retailers are often some of the smallest businesses, with the narrowest of profit margins. HB 2866 puts an onerous burden on those businesses.

Oregon retailers work hard to protect our customers and their privacy. Rather than enhancing privacy, HB 2866 simply adds piles upon piles of paperwork and recordkeeping requirements on businesses.

HB 2866 would increase costs and possibly decrease safety. The bill would prevent a business from protecting itself with video cameras without first obtaining authorization from any individual who appears on those video cameras regardless of whether that person is actually a customer. What if a security company "transfers" the video to the retailer or to a commercial property owner? Is that a violation?

Definitions in the bill are so broad that most businesses will be forced to retain lawyers just to help them figure out how to comply. For example, "personal information" is included in section 1(3)(a) and appears that any business with a customer relationship that includes email must comply with these burdensome requirements.

"Personal information" is broadly defined in the bill. The provision in Section 1(1)(e)(E) would require the majority of businesses that collect or use an Oregon resident's email address, telephone number or physical address to comply with a lengthy list of requirements. The bill imposes many new recordkeeping and regulations on businesses, including:

- Keeping records for two years of all contacts
- Disclosing all items of personal information they have collected, used, etc.
- Providing categories they divided or organized the personal information (and determine what that means)
- Providing the names, addresses and contact info for anybody they received an individual's personal information from
- Providing the names, addresses or contacts for anybody they "transferred" personal information to (This could presumably mean anybody you cc'd on an email because you would be sharing that address with another person)

- Providing all of the policies and procedures related to collecting, using, storing, analyzing and deriving inferences from personal information (that's a lot of policies)
- Providing the purposes for which they collected, used, stored, analyzed or derived inferences from the personal information.
- Providing a form for a request that can be used to make a request for this info
- Paying for encrypting or securely mailing the info to the requestor

Finally, failure to comply with a request could result in that business facing a class action lawsuit. In fact, they could face a class action lawsuit for failing to have "...an easily accessible and easily understandable form..." available. It is clear how lawyers might benefit from this bill, it is less clear how the public and businesses will.

While we appreciate the sentiment of this measure, it is unclear what problem the measure would solve. Do customers really want copies of every policy a business has? Individuals are much more likely to simply ignore all the new documents required. The weight of such a requirement could easily put smaller retailers out of business altogether, since the cost may be too much for the tight profit margins in retail. The proposals in this bill impose truly burdensome requirements on retailers and yet do little to actually improve privacy.

OBI urges the committee to reject HB 2866.

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