

## HB 2008 A -A4 STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Meeting Dates:** 5/5, 5/12, 5/13

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#### WHAT THE MEASURE DOES:

The measure prohibits a controller covered by the Oregon Consumer Privacy Act (OCPA) from processing a consumer's personal data for targeted advertising, from profiling the consumer in certain ways, and from selling the personal data, if the controller knows or willfully disregards that the consumer is under the age of 16. The measure removes the OCPA's exception allowing these activities if the consumer consents. The measure also prohibits a controller from selling personal data that accurately identifies within a radius of 1,750 feet a consumer's present or past location, or the present or past location of a device that links or is linkable to the consumer by means of technology.

*FISCAL: Has minimal fiscal impact*

*REVENUE: No revenue impact*

*HOUSE VOTE: Ayes, 51; Nays, 0*

#### ISSUES DISCUSSED:

- What impact the sale or prohibition on the sale of precise location data has on consumers
- Sale versus transfer of data
- Parameters for precise geolocation are in OCPA's definition of sensitive data
- Other states that passed similar legislation and remedies available for violations
- Motor vehicle manufacturer collection of data and House Bill 3875 (2025)

#### EFFECT OF AMENDMENT:

-A4 The amendment adds an exclusion from the prohibition on the sale of precise location data for communications or data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility, mirroring the exception from the definition of sensitive data in the OCPA at ORS 646A.570 (18)(b).

#### BACKGROUND:

In 2023, the Legislative Assembly enacted Senate Bill 619 (the Oregon Consumer Privacy Act or OCPA), providing consumers rights to know and control how their personal data is processed and used by persons or companies ("controllers") who, in a calendar year, control or process the data of 100,000 or more consumers or devices that link to one or more consumers, or 25,000 consumers if more than 25 percent of their revenue is from selling personal data. The OCPA was codified in [ORS 646A.570-646A.589](#) and details a controller's responsibilities that include but are not limited to providing certain information to consumers in a privacy notice as well as upon a consumer's request, obtaining a consumer's consent before processing or using certain data, and providing an effective means to revoke consent with the same ease in which the consent was given.

The OCPA prohibits controllers from processing a consumer's personal data that is not reasonably necessary for and compatible with purposes specified in the controller's privacy notice, unless the consumer consents. The controller may also not process sensitive data about a consumer without consent. The OCPA defines sensitive data as including certain demographic data as well as biometric data, all personal data of a child under age 13, and geolocation data accurate to a radius of 1,750 feet. If the controller knows the consumer is a child, it must

process the data in compliance with federal data protections for children. The OCPA requires consent for a controller to use personal data for targeted advertising or certain types of profiling, or to sell the personal data, if the controller has actual knowledge or willfully disregards whether the consumer is 13, 14, or 15 years of age.

The OCPA defines "sale" or "sell" as "the exchange of personal data for monetary or other valuable consideration by the controller with a third party." ORS 646A.570 (17)(a). The OCPA excludes the following from that definition: (A) a disclosure or transfer to a processor, (B) a disclosure to the controller's affiliate or a third party "for the purpose of enabling the controller to provide a product or service to a consumer that requested the product or service," (C) a disclosure or transfer from a controller to a third party as part of a proposed or completed assumption of the controller's assets; or (D) a disclosure that occurs because a consumer directed the disclosure of the data, intentionally disclosed it in the course of directing the controller to interact with a third party, or intentionally disclosed it to the public by means of mass media not restricted to a specific audience. ORS 646A.570 (17)(b).