B-Engrossed

House Bill 2008

Ordered by the Senate May 16
Including House Amendments dated April 14 and Senate Amendments
dated May 16

Sponsored by Representatives FAHEY, CHOTZEN; Representatives ANDERSEN, BOWMAN, CHAICHI, DOBSON, DRAZAN, FRAGALA, GAMBA, GOMBERG, GRAYBER, KROPF, LEVY E, MCDONALD, MUNOZ, NGUYEN H, SOSA, TRAN, WALLAN, WALTERS, Senators BROADMAN, GELSER BLOUIN, MANNING JR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Changes some of the law that applies to the use of personal data of consumers. (Flesch Readability Score: 67.5).

Prohibits controllers from processing personal data for the purposes of targeted advertising, or selling personal data that pertains to a consumer, if the controller has actual knowledge, or disregards knowledge of whether, a consumer is under 16 years of age or if the personal data 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. **Exempts from the sales prohibition the content of communications or personal data that is generated by or connected to certain systems or equipment that utilities use.**

1 ## A BILL FOR AN ACT

2 Relating to consumer protection; amending ORS 646A.578.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 646A.578, as amended by section 12, chapter 369, Oregon Laws 2023, is

5 amended to read:

6 646A.578. (1) A controller shall:

7 (a) Specify in the privacy notice described in subsection (4) of this section the express purposes

8 for which the controller is collecting and processing personal data;

9 (b) Limit the controller's collection of personal data to only the personal data that is adequate,

10 relevant and reasonably necessary to serve the purposes the controller specified in paragraph (a)

11 of this subsection;

12 (c) Establish, implement and maintain for personal data the same safeguards described in ORS

13 646A.622 that are required for protecting personal information, as defined in ORS 646A.602, such

14 that the controller's safeguards protect the confidentiality, integrity and accessibility of the personal

15 data to the extent appropriate for the volume and nature of the personal data; and

16 (d) Provide an effective means by which a consumer may revoke consent a consumer gave under

17 ORS 646A.570 to 646A.589 to the controller's processing of the consumer's personal data. The means

18 must be at least as easy as the means by which the consumer provided consent. Once the consumer

19 revokes consent, the controller shall cease processing the personal data as soon as is practicable,

20 but not later than 15 days after receiving the revocation.

21 (2) A controller may not:

22 (a) Process personal data for purposes that are not reasonably necessary for and compatible

1 with the purposes the controller specified in subsection (1)(a) of this section, unless the controller

2 obtains the consumer's consent[*;*]**.**

3 (b) Process sensitive data about a consumer without first obtaining the consumer's consent or,

4 if the controller knows the consumer is a child, without processing the sensitive data in accordance

5 with the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq. and the regulations,

6 rules and guidance adopted under the Act, all as in effect on January 1, 2024[*;*]**.**

7 (c) Process a consumer's personal data for the purposes of targeted advertising[*,*] **or** of profiling

8 the consumer in furtherance of decisions that produce legal effects or effects of similar significance

9 [*or of selling the consumer's personal data without the consumer's consent*] if the controller has actual

10 knowledge that, or willfully disregards whether, the consumer is [*at least 13 years of age and not*

11 *older than 15 years of age; or*] **under 16 years of age.**

12 **(d) Sell personal data that:**

13 **(A) Pertains to a consumer if the controller has actual knowledge that, or willfully dis-**

14 **regards whether, the consumer is under 16 years of age; or**

15 **(B) Accurately identifies within a radius of 1,750 feet a consumer's present or past lo-**

16 **cation, or the present or past location of a device that links or is linkable to a consumer by**

17 **means of technology that includes, but is not limited to, a global positioning system that**

18 **provides latitude and longitude coordinates, except that personal data that is not subject to**

19 **sale under this subparagraph does not include the content of communications or any data**

20 **generated by or connected to advanced utility metering infrastructure systems or equipment**

21 **for use by a utility.**

22 [*(d)*] **(e)** Discriminate against a consumer that exercises a right provided to the consumer under

23 ORS 646A.570 to 646A.589 by means such as denying goods or services, charging different prices or

24 rates for goods or services or providing a different level of quality or selection of goods or services

25 to the consumer.

26 (3) Subsections (1) and (2) of this section do not:

27 (a) Require a controller to provide a good or service that requires personal data from a con-

28 sumer that the controller does not collect or maintain; or

29 (b) Prohibit a controller from offering a different price, rate, level of quality or selection of

30 goods or services to a consumer, including an offer for no fee or charge, in connection with a

31 consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discount or

32 club card program.

33 (4) A controller shall provide to consumers a reasonably accessible, clear and meaningful pri-

34 vacy notice that:

35 (a) Lists the categories of personal data, including the categories of sensitive data, that the

36 controller processes;

37 (b) Describes the controller's purposes for processing the personal data;

38 (c) Describes how a consumer may exercise the consumer's rights under ORS 646A.570 to

39 646A.589, including how a consumer may appeal a controller's denial of a consumer's request under

40 ORS 646A.576;

41 (d) Lists all categories of personal data, including the categories of sensitive data, that the

42 controller shares with third parties;

43 (e) Describes all categories of third parties with which the controller shares personal data at

44 a level of detail that enables the consumer to understand what type of entity each third party is and,

45 to the extent possible, how each third party may process personal data;

1   (f) Specifies an electronic mail address or other online method by which a consumer can contact

2 the controller that the controller actively monitors;

3   (g) Identifies the controller, including any business name under which the controller registered

4 with the Secretary of State and any assumed business name that the controller uses in this state;

5   (h) Provides a clear and conspicuous description of any processing of personal data in which the

6 controller engages for the purpose of targeted advertising or for the purpose of profiling the con-

7 sumer in furtherance of decisions that produce legal effects or effects of similar significance, and a

8 procedure by which the consumer may opt out of this type of processing; and

9   (i) Describes the method or methods the controller has established for a consumer to submit a

10 request under ORS 646A.576 (1).

11   (5) The method or methods described in subsection (4)(i) of this section for submitting a

12 consumer's request to a controller must:

13   (a) Take into account:

14   (A) Ways in which consumers normally interact with the controller;

15   (B) A need for security and reliability in communications related to the request; and

16   (C) The controller's ability to authenticate the identity of the consumer that makes the request;

17   (b) Provide a clear and conspicuous link to a webpage where the consumer or an authorized

18 agent may opt out from a controller's processing of the consumer's personal data as described in

19 ORS 646A.574 (1)(d) or, solely if the controller does not have a capacity needed for linking to a

20 webpage, provide another method the consumer can use to opt out; and

21   (c) Allow a consumer or authorized agent to send a signal to the controller that indicates the

22 consumer's preference to opt out of the sale of personal data or targeted advertising under ORS

23 646A.574 (1)(d) by means of a platform, technology or mechanism that:

24   (A) Does not unfairly disadvantage another controller;

25   (B) Does not use a default setting but instead requires the consumer or authorized agent to

26 make an affirmative, voluntary and unambiguous choice to opt out;

27   (C) Is consumer friendly and easy for an average consumer to use;

28   (D) Is as consistent as possible with similar platforms, technologies or mechanisms required

29 under federal or state laws or regulations; and

30   (E) Enables the controller to accurately determine whether the consumer is a resident of this

31 state and has made a legitimate request under ORS 646A.576 to opt out as described in ORS

32 646A.574 (1)(d).

33   (6) If a consumer or authorized agent uses a method described in subsection (5) of this section

34 to opt out of a controller's processing of the consumer's personal data under ORS 646A.574 (1)(d)

35 and the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card

36 or loyalty program or a program that provides premium features or discounts in return for the

37 consumer's consent to the controller's processing of the consumer's personal data, the controller

38 may either comply with the request to opt out or notify the consumer of the conflict and ask the

39 consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card or

40 loyalty program or the program that provides premium features or discounts. If the consumer affirms

41 that the consumer intends to withdraw, the controller shall comply with the request to opt out.

42   ————————