

Enrolled House Bill 3875

Sponsored by Representative GOMBERG; Representatives CHOTZEN, GAMBA, NELSON, Senators MCLANE, PATTERSON, PHAM K, SMITH DB, THATCHER

CHAPTER

AN ACT

Relating to personal data obtained from a consumer's use of a motor vehicle; amending ORS 646A.572; and prescribing an effective date.

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

SECTION 1. ORS 646A.572 is amended to read:

646A.572. (1)(a) ORS 646A.570 to 646A.589 apply to any person that conducts business in this state, or that provides products or services to residents of this state, and that during a calendar year, controls or processes:

[(a)] (A) The personal data of 100,000 or more consumers, other than personal data controlled or processed solely for the purpose of completing a payment transaction; or

[(b)] (B) The personal data of 25,000 or more consumers, while deriving 25 percent or more of the person's annual gross revenue from selling personal data.

(b) Notwithstanding the threshold numbers specified in paragraph (a)(A) and (B) of this subsection for the application of ORS 646A.570 to 646A.589, and subject to the exemptions set forth in subsections (2) and (3) of this section, ORS 646A.570 to 646A.589 apply to a motor vehicle manufacturer and any affiliate of a motor vehicle manufacturer that controls or processes any personal data obtained from a consumer's use of a motor vehicle or any component of a motor vehicle.

(2) ORS 646A.570 to 646A.589 do not apply to:

(a) A public corporation, including the Oregon Health and Science University and the Oregon State Bar, or a public body, as defined in ORS 174.109;

(b) Protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with, the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and regulations promulgated under the Act, as in effect on January 1, 2024;

(c) Information used only for public health activities and purposes described in 45 C.F.R. 164.512, as in effect on January 1, 2024;

(d) Information that identifies a consumer in connection with:

(A) Activities that are subject to the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. part 46 and in various other federal regulations, as in effect on January 1, 2024;

(B) Research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) Activities that are subject to the protections provided in 21 C.F.R. parts 50 and 56, as in effect on January 1, 2024; or

(D) Research conducted in accordance with the requirements set forth in subparagraphs (A) to (C) of this paragraph or otherwise in accordance with applicable law;

(e) Patient identifying information, as defined in 42 C.F.R. 2.11, as in effect on January 1, 2024, that is collected and processed in accordance with 42 C.F.R. part 2;

(f) Patient safety work product, as defined in 42 C.F.R. 3.20, as in effect on January 1, 2024, that is created for purposes of improving patient safety under 42 C.F.R. part 3;

(g) Information and documents created for the purposes of the Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101 et seq., and implementing regulations, both as in effect on January 1, 2024;

(h) Information that originates from, or that is intermingled so as to be indistinguishable from, information described in paragraphs (b) to (g) of this subsection that a covered entity or business associate, or a program of a qualified service organization, as defined in 42 C.F.R. 2.11, as in effect on January 1, 2024, creates, collects, processes, uses or maintains in the same manner as is required under the laws, regulations and guidelines described in paragraphs (b) to (g) of this subsection;

(i) Information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) An individual's employment or application for employment;

(B) An individual's ownership of, or function as a director or officer of, a business entity;

(C) An individual's contractual relationship with a business entity;

(D) An individual's receipt of benefits from an employer, including benefits for the individual's dependents or beneficiaries; or

(E) Notice of an emergency to persons that an individual specifies;

(j) Any activity that involves collecting, maintaining, disclosing, selling, communicating or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as in effect on January 1, 2024, by:

(A) A consumer reporting agency, as defined in 15 U.S.C. 1681a(f), as in effect on January 1, 2024;

(B) A person who furnishes information to a consumer reporting agency under 15 U.S.C. 1681s-2, as in effect on January 1, 2024; or

(C) A person who uses a consumer report as provided in 15 U.S.C. 1681b(a)(3);

(k) Information collected, processed, sold or disclosed under and in accordance with the following federal laws, all as in effect on January 1, 2024:

(A) The Gramm-Leach-Bliley Act, P.L. 106-102, and regulations adopted to implement that Act;

(B) The Driver's Privacy Protection Act of 1994, 18 U.S.C. 2721 et seq.;

(C) The Family Educational Rights and Privacy Act, 20 U.S.C. 1232g and regulations adopted to implement that Act; and

(D) The Airline Deregulation Act, P.L. 95-504, only to the extent that an air carrier collects information related to prices, routes or services and only to the extent that the provisions of the Airline Deregulation Act preempt ORS 646A.570 to 646A.589;

(L) A financial institution, as defined in ORS 706.008, or a financial institution's affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. 1843(k), as in effect on January 1, 2024;

(m) Information that originates from, or is intermingled so as to be indistinguishable from, information described in paragraph (k)(A) of this subsection and that a licensee, as defined in ORS 725.010, collects, processes, uses or maintains in the same manner as is required under the laws and regulations specified in paragraph (k)(A) of this subsection;

(n) An insurer, as defined in ORS 731.106, other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(o) An insurance producer, as defined in ORS 731.104;

(p) An insurance consultant, as defined in ORS 744.602;

(q) A person that holds a third party administrator license issued under ORS 744.710;

(r) A nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance; and

(s) Noncommercial activity of:

(A) A publisher, editor, reporter or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report or other publication in general circulation;

(B) A radio or television station that holds a license issued by the Federal Communications Commission;

(C) A nonprofit organization that provides programming to radio or television networks; or

(D) An entity that provides an information service, including a press association or wire service.

(3) ORS 646A.570 to 646A.589 do not prohibit a controller or processor from:

(a) Complying with federal, state or local statutes, ordinances, rules or regulations;

(b) Complying with a federal, state or local governmental inquiry, investigation, subpoena or summons related to a civil, criminal or administrative proceeding;

(c) Cooperating with a law enforcement agency concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state or local statutes, ordinances, rules or regulations;

(d) Investigating, establishing, initiating or defending legal claims;

(e) Preventing, detecting, protecting against or responding to, and investigating, reporting or prosecuting persons responsible for, security incidents, identity theft, fraud, harassment or malicious, deceptive or illegal activity or preserving the integrity or security of systems;

(f) Identifying and repairing technical errors in a controller's or processor's information systems that impair existing or intended functionality;

(g) Providing a product or service that a consumer specifically requests from the controller or processor or requests as the parent or guardian of a child on the child's behalf or as the guardian or conservator of a person subject to a guardianship, conservatorship or other protective arrangement on the person's behalf;

(h) Negotiating, entering into or performing a contract with a consumer, including fulfilling the terms of a written warranty;

(i) Protecting any person's health and safety;

(j) Effectuating a product recall;

(k) Conducting internal research to develop, improve or repair products, services or technology;

(L) Performing internal operations that are reasonably aligned with a consumer's expectations, that the consumer may reasonably anticipate based on the consumer's existing relationship with the controller or that are otherwise compatible with processing data for the purpose of providing a product or service the consumer specifically requested or for the purpose of performing a contract to which the consumer is a party; or

(m) Assisting another controller or processor with any of the activities set forth in this subsection.

(4) ORS 646A.570 to 646A.589 do not apply to the extent that a controller's or processor's compliance with ORS 646A.570 to 646A.589 would violate an evidentiary privilege under the laws of this state. Notwithstanding the provisions of ORS 646A.570 to 646A.589, a controller or processor may provide personal data about a consumer in a privileged communication to a person that is covered by an evidentiary privilege under the laws of this state.

(5) A controller may process personal data in accordance with subsection (3) of this section only to the extent that the processing is adequate and reasonably necessary for, relevant to, proportionate in relation to and limited to the purposes set forth in this section.

(6) Collection, use and retention of personal data under subsection (3)(e) and (f) of this section must, where applicable, take into account the nature and purpose of the collection, use or retention. The personal data must be subject to reasonable administrative, technical and physical measures to protect the confidentiality, integrity and security of the personal data and reduce reasonably foreseeable risks of harm to consumers from the collection, use or retention.

(7) A controller that claims that the controller's processing of personal data is exempt under subsection (3) of this section has the burden of demonstrating that the controller's processing qualifies for the exemption and complies with the requirements of subsections (5) and (6) of this section.

SECTION 2. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by House April 10, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate May 15, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State