

HB 3899 -1 Amendment Request

Overview: Build on Oregon’s Consumer Privacy Act (SB 619 — 2023) by expanding protections for minors, prohibiting the sale of precise location data, strengthening data minimization requirements, and closing technical loopholes.

Changes we’re making to SB 619 (Oregon Consumer Privacy Act):

1. Adding the definition of “transfer” and “consumer health.”
2. Three ODOJ technical fixes:
 - a. Clarifying insurer exemption
 - b. Grammatical error in the definition of targeted advertising
 - c. Clarifying the applicability of trade secrets
3. Strengthening data minimization requirements of a controller’s collection of personal data, and of a controller’s collection, processing, and transferring of sensitive data.
4. Raise the age on the prohibition of processing personal data for targeted advertising and profiling from 13 to 15.
5. Prohibit the sale of two types of sensitive data:
 - a. Precise geolocation data (radius of 1,750 feet)
 - b. Data belonging to a minor under 16 years of age

*Changes we are requesting are marked in red or **stricken-through***

In the current bill (HB3899) as written, remove all (bolded) changes printed under Section 2

1. In Section 646A.570 - Definitions,
 - a. (18)(a) "Sensitive data" means personal data that:
 - b. (A) Reveals a consumer’s racial or ethnic background, national origin, religious beliefs, ~~mental or physical condition or diagnosis~~, sexual orientation, status as transgender or nonbinary, status as a victim of crime or citizenship or immigration status;
 - c. (E) is Consumer health data.
 - d. (19)(a) "Targeted advertising" means advertising that is selected for display to a consumer on the basis of personal data obtained from the consumer’s activities over time and across one or more unaffiliated websites or online applications and **is** used to predict the consumer’s preferences or interests.
 - e. “Consumer health data” means any personal data that reveals or that a controller uses to identify, describe, or reveal a consumer’s past, present, or future physical or mental health condition or diagnosis.
 - f. (22) “Transfer” means to disclose, release, disseminate, make available, license, rent, or share personal data to a third party orally, in writing, electronically, or by any other means.
2. In Section 646A.572 - Scope and application; exclusions:
 - a. (2) ORS 646A.570 to 646A.589 do not apply to:
 - b. (n) ~~An insurer,~~ **Entities lawfully conducting business as 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;

3. In Section 646A.574 - Consumer requests for personal data; requirement to correct inaccuracies; requirement to delete personal data; conditions under which consumer may opt out of personal data processing; format for providing copy of personal data to consumer.
 - a. (1) Subject to ORS 646A.576, a consumer may:
 - b. (a) Obtain from a controller:
 - c. (A) Confirmation as to whether the controller is processing or has processed the consumer's personal data and the categories of personal data the controller is processing or has processed;
 - d. (B) At the controller's option, a list of specific third parties, other than natural persons, to which the controller has disclosed:
 - e. (i) The consumer's personal data; or
 - f. (ii) Any personal data; and
 - g. (C) A copy of all of the consumer's personal data that the controller has processed or is processing;
 - h. (b) Require a controller to correct inaccuracies in personal data about the consumer, taking into account the nature of the personal data and the controller's purpose for processing the personal data;
 - i. (c) Require a controller to delete personal data about the consumer, including personal data the consumer provided to the controller, personal data the controller obtained from another source and derived data; or
 - j. (d) Opt out from a controller's processing of personal data of the consumer that the controller processes for any of the following purposes:
 - k. (A) Targeted advertising;
 - l. (B) Selling the personal data; or
 - m. (C) Profiling the consumer in furtherance of decisions that produce legal effects or effects of similar significance.
 - n. (2) A controller that provides a copy of personal data to a consumer under subsection (1)(a)(C) of this section shall provide the personal data in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the personal data to another person without hindrance. **Nothing in this subsection (2) requires a controller to provide the data to the consumer in a manner that would disclose the controller's trade secrets, as defined in ORS 646.461. [2023 c.369 §3].**
 - ~~e. (3) This section does not require a controller to disclose the controller's trade secrets, as defined in ORS 646.461. [2023 c.369 §3]~~
4. In Section 646A.578 - Duties of controller; prohibitions; privacy notice to consumer:
 - a. (1) A controller shall:
 - b. (a) Specify in the privacy notice described in subsection (4) of this section the express purposes for which the controller is collecting and processing personal data;
 - c. (b) Limit the controller's collection of personal data to only:
 - i. The personal data that is **adequate, relevant and reasonably necessary to serve the purposes the controller specified in paragraph (a) of this subsection** **reasonably**

- necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains;
- d. (c) Limit the controller's collection, processing, and transferring of sensitive data to only data that is:
 - i. Strictly necessary to provide or maintain a specific product or service requested by the consumer to whom the data pertains.
 - e. (d) Establish, implement and maintain for personal data the same safeguards described in ORS 646A.622 that are required for protecting personal information, as defined in ORS 646A.602, such that the controller's safeguards protect the confidentiality, integrity and accessibility of the personal data to the extent appropriate for the volume and nature of the personal data; and
 - f. (e) Provide an effective means by which a consumer may revoke consent a consumer gave under ORS 646A.570 to 646A.589 to the controller's processing of the consumer's personal data. The means must be at least as easy as the means by which the consumer provided consent. Once the consumer revokes consent, the controller shall cease processing the personal data as soon as is practicable, but not later than 15 days after receiving the revocation.
 - g. (2) A controller may not:
 - h. (a) Process personal data for purposes that are not reasonably necessary for and compatible with the purposes the controller specified in subsection (1)(a) and (b) of this section, unless the controller obtains the consumer's consent;
 - i. (b) Process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501 et seq. and the regulations, rules and guidance adopted under the Act, all as in effect on January 1, 2024;
 - j. (c) Process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal effects or effects of similar significance or of selling the consumer's personal data ~~without the consumer's consent~~ if the controller ~~knew or should have known that the consumer is under the age of 16~~ ~~has actual knowledge that, or willfully disregards whether, the consumer is at least 13 years of age and not older than 15 years of age~~; or
 - k. (d) Discriminate against a consumer that exercises a right provided to the consumer under ORS 646A.570 to 646A.589 by means such as denying goods or services, charging different prices or rates for goods or services or providing a different level of quality or selection of goods or services to the consumer.
 - l. (e) Sell personal data that:
 - i. (i) 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 a consumer by means of technology that includes, but is not limited to, a global positioning system that provides latitude and longitude coordinates;
 - ii. (ii) Belongs to a consumer that the controller knows or should have known is under 16 years of age.

5. Amendments to Section 646A.578 - Duties of controller; prohibitions; privacy notice to consumer (Operative on January 1, 2026):
 - a. (2) A controller may not:
 - b. (c) Process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal effects or effects of similar significance or of selling the consumer's personal data ~~without the consumer's consent~~ if the controller ~~knew or should have known that the consumer is under the age of 16~~ has actual knowledge that, or willfully disregards whether, the consumer is at least ~~13 years of age and not older than 15 years of age~~; or