



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: May 10, 2017

TO: Honorable Lee Beyer, Chair
Senate Committee on Business and Transportation

FROM: Cheryl Hiemstra, Deputy Legislative Director

SUBJECT: HB 2090 – Holding Businesses Accountable for Privacy Policy Promises

This testimony is presented in support of House Bill 2090A.

BACKGROUND

In this digital age, Oregonians are giving businesses a tremendous amount of information: location data, browsing history, the speed at which they drive their cars, even their number of heart beats per minute. In order to gain consumers' trust, many businesses post privacy policies to their website or in consumer agreements. These privacy policies explain how businesses agree to use, disclose, or dispose of consumers' personal information. The consumer might even rely on promises in that policy as a condition to doing business with the company.

Although companies are free to include whatever terms they want in their privacy policies, there currently no protections in Oregon law to ensure that businesses follow those terms. Often consumers do not realize what information the apps and devices they use are accessing. Even if consumers are aware of what information is shared, most are unable to tell how their information is used. This lack of knowledge

means consumers have little bargaining power to ask a business to protect their information. Although most companies follow their privacy policies, consumers should be able to trust that businesses will be held accountable if their information is used in ways they did not authorize.

CONCEPT

This bill is fairly simple: it requires companies to follow their own privacy policies. HB 2090A makes it an unlawful practice for a business to use, disclose, collect, maintain, delete, or dispose of a consumer's information in a manner that is materially inconsistent with the terms of the business's own privacy policy posted on their website or in a consumer agreement. It does so by adding a provision to Oregon's primary consumer protection law, which is enforced by the Attorney General.

The bill seeks to add a measure of accountability to consumer transactions at a time when the need for protection and safe handling of consumer data is most important. This will bring into compliance businesses that are dishonest about or misleading with their use of consumers' information.

Contact: Cheryl Hiemstra, Deputy Legislative Director, 971-701-0457 or cheryl.hiemstra@doj.state.or.us