



March 11, 2019

The Honorable Jennifer Williamson
House Judiciary Committee
900 Court Street NE
Salem OR 97301

RE: Oppose HB 2866 Relating to required actions with respect to personal information of resident individuals.

Dear Chair Williamson and Members of the Committee:

Internet Association (IA) appreciates the opportunity to express our **OPPOSITION** to **HB 2866**.

IA represents over 40 of the world's leading internet companies and advances public policy solutions that foster innovation, promote economic growth, and empower people through the free and open internet.

IA supports efforts that empower consumers to better understand how their personal information is collected, used, and protected by businesses. At the same time, we also appreciate that consumers have certain expectations in the quality of their experience when using modern, data-driven services and their interactions with the businesses providing those services. HB 2866 would disrupt those expectations by imposing unrealistic and unreasonable requirements on both businesses and consumers, which will ultimately lead to consumer frustration and confusion without any appreciable gains in user privacy.

For example, Subsection 2 of HB 2866 requires companies to receive the explicit, standalone opt-in consent from a consumer prior to collecting, using, storing, analyzing, deriving inferences from, selling, leasing, or otherwise transferring the consumer's geolocation or audiovisual data. In addition to receiving this opt-in consent, a business must also first explain the specific items of geolocation or audiovisual data they intend to collect for these uses, how often and through what method they will collect and use the data, and the specific purpose for each use.

These requirements would lead to serious consumer confusion and notice fatigue. This is particularly true since these disclosures are likely to feel redundant to consumers who have already "opted-in" by signing up to use services that are geolocation-dependent and/or audiovisual-dependent.

It is also unclear whether companies would have to provide these disclosures and explicit opt-in consent requests every time a consumer uses the service. It is easy to imagine consumers becoming frustrated by these recurring, confusing notices and simply ignoring them as they try to quickly get to the actual service they want to use. A consumer needing to click-through these disclosures every time they log onto an app to find their closest coffee shop or drug store would not result in more meaningful privacy for end-users.

Subsection 3 in HB 2866 would be simply onerous on businesses without a proportionate and meaningful privacy gain for consumers. This section expects businesses to provide open-ended



reports on all the “policies and procedures” a company has related to its use of personal information, geolocation, and audio/visual data, some of which would undoubtedly into the realm of proprietary information. This would force companies to disclose tremendous amounts of detail on their use of broad swaths of data without clarity on the limits as to what must be disclosed to meet the requirement, again without any clear privacy benefit for consumers.

These concerns are compounded by the private right of action proposed in the bill. This method of enforcement would only lead to significant new litigation against Oregon businesses of all sizes, especially since HB 2866 includes strict liability for even technical non-compliance with the bill’s confusing provisions. A preferable approach to enforcement of data privacy laws like HB 2866 is from a professional public enforcement agency, which would result in greater consistency and transparency in enforcement, and therefore greater clarity for businesses in what exactly is expected from them when it comes to proper compliance.

As written, this bill will have a chilling effect on innovation in Oregon with no appreciable privacy gains for Oregon residents. For these reasons and more, we must respectfully **OPPOSE HB 2866** and urge you to hold the bill in committee.

If you have any questions please contact me at rose@internetassociation.org or 206-326-0712.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rose Feliciano', followed by a long horizontal line extending to the right.

Rose Feliciano
Director, State Government Affairs Northwest Region