



TESTIMONY OF ALLISON MAGINOT
DIRECTOR OF STATE GOVERNMENT RELATIONS

ON BEHALF OF
THE AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE

BEFORE THE OREGON STATE SENATE
JUDICIARY COMMITTEE

HEARING ON HB 2395

APRIL 29, 2019

Chair Prozanski, Vice-Chair Thatcher, and members of the Senate Committee on Judiciary. Thank you for allowing the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) to provide testimony on Oregon House Bill 2395 (HB 2395) and its proposal to require all manufacturers to equip connected devices with “reasonable security features”.

AHRI represents more than 300 manufacturers of air-conditioning, heating and commercial refrigeration equipment. It is an internationally recognized advocate for the HVACR industry, and certifies the performance of many of the products manufactured by its members. In North America, the annual output of the HVACR industry is worth more than \$20 billion. In the United States alone, AHRI members employ approximately 130,000 people and support another 800,000 dealers, contractors, and technicians nationwide.

AHRI’s members manufacture a wide variety of HVACR and water heating products that are increasingly becoming connected to the internet and to broader interconnected residential and commercial systems. Given this new reality, industry understands and supports efforts to ensure that these products are secure and safe from the threat of hacking or malfeasance. With this in mind, AHRI supports the objectives of legislation such as HB 2395. However, it is AHRI’s belief that as the legislation is currently written, compliance would present a significant challenge to manufacturers.

AHRI strongly believes that the definition of “reasonable security features” in Section 1(1)(c) and the examples of compliance included in Section 1(2) of the legislation are too broad and do not clearly articulate how a manufacturer can reasonably comply. As the bill is currently written, a manufacturer could be sued years after a product is designed and manufactured, and it gives the Attorney General wide latitude to determine what is considered “reasonable.”

In the California version of this legislation that was passed into law in 2018¹, there is clear language that notes the law shall not be construed to provide a basis for a private right of action. Additionally, the law limits enforcement authority to the Attorney General, a city attorney, a county counsel, or a district attorney. It is unclear in HB 2395 how enforcement will be handled. As it is currently written, AHRI believes it would open up manufacturers to the threat of potential lawsuits from any individual consumer at any point in time. It would be in the best interest of manufacturers, and Oregonians alike, to support a path to compliance that is based on industry-led best practices and technical expertise, and that is enforced based on compliance at the time a product is designed and manufactured.

With these concerns in mind, AHRI respectfully requests that the definition of “reasonable security features” be amended to allow for manufacturers to comply through an approach that

¹ Senate Bill 327 (2018); An act to add Title 1.81.26 (commencing with Section 1798.91.04) to Part 4 of Division 3 of the Civil Code, relating to information privacy.

relies on consensus standards. Consensus standards are developed through a continuous process that relies on input and expertise from a wide variety of stakeholders. By including a provision for compliance through consensus standards, not only would there be a path to compliance that relies on substantive research and industry best practices, the legislation would also be better able to account for emerging technology. Consensus standards provide an adaptable and effective way to address cybersecurity, as they are continuously evaluated and updated, allowing them to be improved as connected devices and their applications develop.

AHRI also echoes the concerns raised by the Association of Home Manufacturers (AHAM) that cybersecurity is best done at the national or international level. HB 2395 should be amended to align with the California law (1798.91.06) that states that the “title shall not apply to any connected device the functionality of which is subject to security requirements under federal law, regulations, or guidance promulgated by a federal agency.” HB 2395 does not currently include the word “guidance” and should be amended to include the specific reference.

Finally, we believe that AHRI can provide helpful recommendations that are technically feasible, allow for market certainty, benefit consumers and the industries that serve them, while still protecting the cybersecurity of those who purchase connected devices. We would like to work with the Oregon Legislature and the Office of the Attorney General to provide substantive input that will help to make this legislation as successful as possible.

Thank you for the opportunity to submit testimony for this hearing. AHRI looks forward to working with Oregon State to develop policies that ensure the security of all of our customers in the state.