

House Bill 2392

Sponsored by Representative MARSH (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Imposes tax on privilege of engaging in business of selling personal information at retail in this state. Applies to personal information accumulated from Internet related to individual using Internet Protocol address located in this state. Provides for administration of privilege tax by Department of Revenue. Applies to sales of taxable personal information that occur on or after January 1, 2022. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the taxation of sales of personal information; prescribing an effective date; and providing
3 for revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1. As used in sections 1 to 9 of this 2021 Act:**

6 (1) **"Gross receipts" includes the fair market value, as of the date of the sales trans-**
7 **action, of consideration other than cash or cash equivalents received by the seller.**

8 (2)(a) **"Personal information" means information that identifies, relates to, describes or**
9 **is capable of being associated with an individual, including but not limited to the individual's:**

10 (A) **Name;**

11 (B) **Physical address or other location information;**

12 (C) **Telephone number;**

13 (D) **Electronic mail address;**

14 (E) **Internet Protocol address;**

15 (F) **Signature;**

16 (G) **Physical characteristics or description;**

17 (H) **Biometric data;**

18 (I) **Driver license number, state identification card number, passport number, Social Se-**
19 **curity number or other government-issued identification number;**

20 (J) **Bank account number, debit card number, credit card number or other financial in-**
21 **formation;**

22 (K) **Insurance information;**

23 (L) **Medical information;**

24 (M) **Employment information;**

25 (N) **Educational background information;**

26 (O) **Browser habits;**

27 (P) **Consumer preferences; and**

28 (Q) **Other data that can be attributed to the individual and used for marketing or deter-**
29 **mining access and costs related to insurance, credit or health care.**

30 (b) **"Personal information" does not include photographs.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) "Selling taxable personal information" includes exchanging personal information for
2 consideration other than cash or cash equivalents.

3 (4) "Taxable personal information" means personal information accumulated from the
4 Internet.

5 **SECTION 2.** (1) A tax is imposed on the privilege of engaging in the business of selling
6 taxable personal information at retail in this state.

7 (2) The privilege tax imposed under this section shall be computed at the rate of five
8 percent of the gross receipts a person generates from the sale of taxable personal informa-
9 tion at retail in this state.

10 (3) For purposes of sections 1 to 9 of this 2021 Act:

11 (a) A person is engaged in the business of selling taxable personal information in this
12 state if the person generates gross receipts from selling the taxable personal information of
13 individuals located in this state.

14 (b) An individual is located in this state if the Internet Protocol address used by the in-
15 dividual and associated with the taxable personal information is located in this state.

16 (c) The Department of Revenue may adopt rules necessary to allocate gross receipts from
17 sales of taxable personal information to this state.

18 **SECTION 3.** Each person engaging in the business of selling taxable personal information
19 at retail in this state shall keep records, receipts, invoices and other pertinent papers related
20 to the privilege tax imposed under section 2 of this 2021 Act in a form required by the De-
21 partment of Revenue.

22 **SECTION 4.** (1)(a) Each person engaging in the business of selling taxable personal in-
23 formation at retail in this state shall file a return with the Department of Revenue, in the
24 form and manner prescribed by the department, on or before the last day of January, April,
25 July and October of each year for the calendar quarter just ended.

26 (b) The return shall show the amount of the privilege tax due for the calendar quarter
27 to which the return relates.

28 (c) The person shall file the returns required under this section regardless of whether
29 any privilege tax is owed.

30 (2) Each person liable for any amount of privilege tax shall pay the amount due for the
31 quarter to the department in the form and manner prescribed by the department, but not
32 later than the date of submitting each quarterly return, without regard to extensions under
33 subsection (3) of this section.

34 (3) The department may extend the time for making a return required under this section
35 if a written request is filed with the department during or prior to the period for which the
36 extension may be granted. The department may not grant an extension of more than 30 days.

37 (4) Interest shall be added to delinquent privilege tax amounts at the rate established
38 under ORS 305.220 from the time the return to which the delinquent tax amounts relate was
39 originally required to be filed to the time of payment.

40 **SECTION 5.** The Department of Revenue may adopt any rule the department considers
41 necessary for implementing sections 1 to 9 of this 2021 Act, including, but not limited to,
42 rules that establish uniformity in the application, reporting and collection of the privilege tax
43 imposed under section 2 of this 2021 Act.

44 **SECTION 6.** Except as otherwise provided in sections 1 to 9 of this 2021 Act or where the
45 context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and

1 examination of returns, periods of limitation, determination of and notices of deficiencies,
 2 assessments, collections, liens, delinquencies, claims for refund and refunds, conferences,
 3 appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of re-
 4 turns and the related penalties, and the related procedures, apply to the determinations of
 5 taxes, penalties and interest under sections 1 to 9 of this 2021 Act.

6 **SECTION 7.** (1) If the amount of the privilege tax paid by a seller under sections 1 to 9
 7 of this 2021 Act exceeds the amount of privilege tax due, the Department of Revenue shall
 8 refund the amount of the overpayment.

9 (2) Except as provided in subsection (3) of this section, the period prescribed for the de-
 10 partment to allow or make a refund of any overpayment of the privilege tax shall be as
 11 provided in ORS 314.415.

12 (3) The department shall apply any overpayment of the privilege tax first to any amount
 13 of the privilege tax that is then outstanding.

14 **SECTION 8.** (1) Except as otherwise provided by law, all amounts of the privilege tax
 15 imposed under section 2 of this 2021 Act, and all interest and penalties imposed on the
 16 amounts, shall be paid to the Department of Revenue.

17 (2)(a) Upon receipt by the department, the amounts described in subsection (1) of this
 18 section shall be paid to the State Treasurer to be held in a suspense account established
 19 under ORS 293.445 for the purpose of receiving the amounts.

20 (b) There are continuously appropriated to the department amounts of the privilege tax
 21 moneys in the suspense account necessary to pay:

22 (A) The actual expenses incurred by the department for the administration, collection
 23 and enforcement of the privilege tax under sections 1 to 9 of this 2021 Act; and

24 (B) Refunds of overpayments of the privilege tax.

25 (3) After payments made under subsection (2) of this section, the net privilege tax mon-
 26 eys held in the suspense account shall be transferred to the General Fund.

27 **SECTION 9.** ORS 314.400 (1) applies to a taxpayer that fails to file a return as required
 28 under section 4 of this 2021 Act or that fails to pay the privilege tax imposed under section
 29 2 of this 2021 Act on or before the due date of the return to which the tax liability relates.

30 **SECTION 10.** Sections 1 to 9 of this 2021 Act apply to sales of taxable personal informa-
 31 tion that become final on or after January 1, 2022.

32 **SECTION 11.** This 2021 Act takes effect on the 91st day after the date on which the 2021
 33 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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