



March 7, 2023

Senate Committee on Judiciary  
900 Court St, NE  
Salem, OR 97301

Dear Chair Prozanski, Vice Chair Thatcher, and members of the committee,

The Technology Association of Oregon (TAO) appreciates the opportunity to submit this letter in opposition to SB 619 as currently written.

TAO is the force behind the regional tech industry—supporting entrepreneurs, connecting peers and decision makers, and helping establish the Northwest as a global hub for innovation. We work with over 500 tech and tech-enabled companies throughout Oregon, ranging in size from one-person startups to some of the largest tech companies in the world.

TAO has served as a member of the Attorney General’s Central Table for the Consumer Privacy Task Force since its formation. We appreciate the robust and thorough process the AG and her staff have run since 2019, working through the many complex issues included in comprehensive consumer data privacy legislation. While significant strides have been made to draft a bill that both protects Oregon consumers and ensures that Oregon companies can continue to conduct business in the state, significant changes are still needed in order for TAO’s members to support the bill. We are not there yet. We look forward to continuing to work with the AG’s office to address the changes suggested by TAO’s members and are hopeful that we will be able to support SB 619 with amendments.

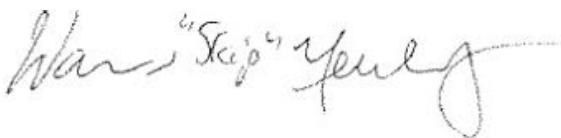
TAO and its members suggest the following changes be made to SB 619:

- **Private Right of Action:** remove the private right of action. Private litigation is ill suited to ensuring enforcement actions actually target the most significant harms to consumers. Instead, the bill should establish exclusive regulatory enforcement, whereby case law will develop and provide clear interpretative guidance for both businesses and consumers.
- **Director/Officer Liability:** The bill’s enforcement tools include a problematic provision that would allow courts to find actions by both the controller and its directors, members, officers, employees, or agents in violation of the Act, and impose separate civil penalties on each. This provision would needlessly subject employees to direct civil penalty liability in a departure from existing norms with no meaningful improvement to consumer data protections. This provision should be struck from the bill entirely.

- **Biometrics:** the definition of biometrics should be harmonized with other state privacy laws. The current definition is needlessly confusing, potentially capturing data uses that pose few privacy risks but could provide significant benefits to the consumers and the economy.
- **Sale:** align the definition of “sale” with the more streamlined approach in Virginia’s privacy law to better meet consumer expectations when exercising this opt-out right.
- **Exception for “manifestly unfounded” requests:** unlike in other state laws (i.e., Virginia and Connecticut), there is no express authorization for a controller to decline responding to requests that are “manifestly unfounded, excessive, repetitive, or technically infeasible” in nature. The manifestly unfounded language should be added to ensure such request rights are not abused and do not harm the processing of good faith consumer requests.
- **Precise Geolocation Definition:** align the definition with Virginia’ privacy law to clarify that the content of communications is excluded.
- **Sharing of Third-Party Names:** In the process to develop CCPA, this requirement to provide the specific names of third parties with whom a consumer’s information was shared was intentionally not included in the bill. Other states have reached the same conclusion. We are concerned that this issue appears to be an area where Oregon is attempting to separate itself from other states without regard to the extraordinarily heavy burden this requirement places on smaller and medium-sized businesses from a compliance standpoint.

Thank you for the opportunity to provide testimony on SB 619.

Sincerely yours,

A handwritten signature in cursive script that reads "Skip Newberry". The signature is written in dark ink and is positioned below the text "Sincerely yours,".

Skip Newberry

President & CEO, Technology Association of Oregon