



March 7, 2023

Hon. Floyd Prozanski and Members of the Committee
Committee on Judiciary
Oregon State Senate

RE: SB 619 - Protections for the Personal Data of Consumers

Dear Chair Prozanski and Members of the Committee:

I am writing to address concerns with SB 619 regarding consumer data protection. As written, the bill would pose serious hardships on the ability of our organization, the National Insurance Crime Bureau (“NICB”) to combat insurance fraud.

Organization and Business Purpose

Headquartered in Des Plaines, Illinois, and with a 110-year history, the National Insurance Crime Bureau is the nation’s premier not-for-profit organization exclusively dedicated to leading a united effort to prevent insurance crime and fraud through intelligence-driven operations. NICB is primarily funded by assessments on our nearly 1,200-member property-casualty insurance companies, car rental companies, and other strategic partners.

NICB sits at the intersection between the insurance industry and law enforcement, helping to identify, prevent, and deter fraudulent insurance claims. NICB’s approximately 400 employees work with law enforcement entities, government agencies, prosecutors, and international crime-fighting organizations in pursuit of its mission. While NICB provides value to our member companies, we also serve a significant public benefit by helping to stem the estimated billions of dollars in economic harm that insurance crime causes to individual policy holders across the country every year.

NICB maintains operations in every state around the country, including in Oregon where NICB is an unmatched and trusted partner in the fight against insurance fraud. NICB analysts and agents work daily with Oregon law enforcement agencies at both the state and local levels to provide assistance in all manner of cases. NICB maintains close relationships with all types of agencies and senior law enforcement officials in Oregon who can directly speak to the value that NICB brings to their organizations, including: the Oregon State Police, Oregon Department of Motor Vehicles, Oregon Department of Transportation, multiple state professional licensing boards, the Portland Police Bureau, many other police and sheriff’s agencies, prosecuting agencies, as well as the Oregon offices of federal law enforcement such as the Federal Bureau of Investigation and the United States Postal Service.

Oregon’s Insurance Fraud Reporting Requirements

Recognizing the adverse impact of insurance crime on the citizens of Oregon, the state legislature enacted laws requiring Oregon insurers to report criminal conduct involving insurance and to cooperate

with state, local, and federal law enforcement agencies.¹ NICB facilitates the flow of that reporting information through NICB's Fraud Bureau Reporting Program, allowing NICB member insurance companies to report suspected fraud and other criminal conduct which is then passed along to the state – at no cost to the government.

Importantly, the state legislature also provided protection to insurers and other entities – including NICB – reporting insurance crime information in the form of immunity from civil liability.²

Applicability of SB 619

Senate Bill 619 establishes various consumer rights relating to their personal data and applies to “any person” conducting business in Oregon. Unlike laws enacted in California, Utah, Virginia, and Connecticut, the bill does not provide any exemption for non-profit organizations.

Senate Bill 619 provides certain limitations on the reach of the proposed statute in Section 2. Although NICB would benefit from these limitations, NICB would still be subject to consumer requests to, for example, delete their data. Even for non-viable requests under the statute, NICB would nevertheless bear the burden of proving to each consumer directly, or in litigation, that NICB's activities fall within the limitation. The obligation to do so would strain our organization's resources to such a degree that our operations, and ability to protect Oregon policyholders, would be drastically encumbered and diminished.

Although all entities within the scope of bill would incur some level of compliance costs, the policy reasons for excluding NICB from these burdens are several-fold. First, NICB provides significant benefits to the general public and to the millions of consumers who are victims of insurance fraud. Second, as a non-profit organization that serves a public interest, NICB is not equally situated with private entities that typically establish more complex compliance infrastructure for private-sector-related obligations. For a public-service non-profit operating on an extremely lean budget, the potential cost of complying with the substantive provisions would drastically reduce the benefits NICB provides to the overall public good – without any associated benefit to consumers. Third, NICB's required responses to individual consumer requests, or involvement in civil litigation, would likely expose otherwise covert criminal investigations. For example, if an illicit actor who is involved in multiple criminal conspiracies demands that NICB confirm that we are processing that individual's data and requests access to that data, a mere response from NICB tying that information to a fraud-related purpose would provide a clear signal to that the individual, thereby exposing any criminal investigation. Lastly, imposing what is essentially a “compliance, response, reporting and litigation” obligation – without any benefit to consumers – is wholly inconsistent with Oregon's insurance fraud reporting requirements and civil immunity provisions referenced above. Those obligations were enacted to facilitate the flow of criminal information involving insurance to Oregon authorities for the very purpose of preventing, detecting, and protecting against fraud.

In addition to the constraints that the limitations would provide as set forth above, that section would not provide NICB any protection for our operations relating to catastrophic events. For example, NICB provides invaluable assistance to federal, state, and local emergency response agencies and law enforcement entities in response to hurricanes, tornados, floods, wildfires, and other natural disasters. NICB partners with these entities in the lead up to and immediate aftermath of these events. NICB

¹ ORS § 731.592.

² ORS § 731.314; ORS § 731.592; ORS § 731.594; ORS § 731.737; ORS § 476.270.

often deploys agents to assist with emergency responders and law enforcement in many different ways. The Geospatial Insurance Consortium (GIC), which is an initiative developed by NICB, has become an integral part of public agencies' overall response plans to significant catastrophic events. GIC is an information sharing partnership designed to provide aerial imagery and other information to help response agencies efficiently allocate their resources to the most heavily impacted areas. This service is available as a result of partnerships with several public and private organizations and is provided at no cost to the public.

Proposed Changes

Consistent with longstanding public policy determinations already considered and enacted in Oregon law, NICB respectfully requests a wholesale exemption to the consumer data privacy bill for "non-profit organizations established to detect and prevent fraudulent insurance acts." As a 501(c)(4) non-profit entity, NICB is exempt from California, Connecticut, and Utah's comprehensive consumer data privacy laws. Virginia's Consumer Data Protection Act specifically exempts NICB as an entity recognized under Virginia statute. NICB has also worked with legislators in several other states to introduce bills or draft amendments exempting NICB, including in neighboring Washington state, Ohio, Kentucky, Texas, Iowa, Tennessee, Oklahoma, and Hawaii.

Conclusion

We appreciate your consideration of our concerns. We welcome the opportunity to discuss these issues in more detail. In the meantime, if you have any questions or need additional information, please contact me at hhandler@nicb.org or 312-771-3974.

Sincerely,



Howard Handler, MPPA

Senior Director

Strategy, Policy, and Government Affairs