

JAN 17 2020

---

# A BILL FOR AN ACT

---

RELATING TO PERSONAL INFORMATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Chapter 487J, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4       "§487J-       Use of personal information; written consent;  
5 third parties; opt out. (a) A third party shall not use or  
6 sell personal information about a consumer that has been sold to  
7 the third party by a business unless the consumer has received  
8 explicit notice, provides express written consent, and is  
9 provided an opportunity to exercise the right to opt out  
10 pursuant to subsection (b).

11       (b) A consumer shall have the right, at any time, to  
12 direct a business that sells personal information about the  
13 consumer to third parties not to sell the consumer's personal  
14 information. This right may be referred to as the right to opt  
15 out.

16       (c) A business that sells consumers' personal information  
17 to third parties shall provide notice to consumers that the



1 information may be sold and that consumers have the right to opt  
2 out of the sale of their personal information.

3 (d) A business that has received direction from a consumer  
4 not to sell the consumer's personal information or, in the case  
5 of a minor consumer's personal information, has not received  
6 consent to sell the minor consumer's personal information shall  
7 be prohibited from selling the consumer's personal information  
8 after its receipt of the consumer's direction, unless the  
9 consumer subsequently provides express authorization for the  
10 sale of the consumer's personal information.

11 (e) Notwithstanding subsection (a), a business shall not  
12 sell the personal information of consumers if the business has  
13 actual knowledge that the consumer is less than sixteen years of  
14 age, unless the consumer, in the case of consumers between  
15 thirteen and sixteen years of age, or the consumer's parent or  
16 guardian in the case of consumers who are less than thirteen  
17 years of age, has affirmatively authorized the sale of the  
18 consumer's personal information. A business that wilfully  
19 disregards the consumer's age shall be deemed to have actual  
20 knowledge of the consumer's age. This right may be referred to  
21 as the right to opt in.



1        (f) A business that is required to comply with this  
2 section shall, in a form that is reasonably accessible to  
3 consumers:

4        (1) Provide a clear and conspicuous link on the business'  
5 Internet homepage, titled "Do Not Sell My Personal  
6 Information", to an Internet webpage that enables a  
7 consumer or a person authorized by the consumer to opt  
8 out of the sale of the consumer's personal  
9 information. A business shall not require a consumer  
10 to create an account in order to direct the business  
11 not to sell the consumer's information;

12       (2) Ensure that all individuals responsible for handling  
13 consumer inquiries about the business's privacy  
14 practices or the business's compliance with this  
15 section are informed of all requirements of this  
16 section and how to direct consumers to exercise their  
17 rights;

18       (3) For consumers who exercise their right to opt out of  
19 the sale of their personal information, refrain from  
20 selling personal information collected by the business  
21 about the consumer;



1       (4) For a consumer who has opted out of the sale of the  
2       consumer's personal information, respect the  
3       consumer's decision to opt out for at least twelve  
4       months before requesting that the consumer authorize  
5       the sale of the consumer's personal information; and

6       (5) Use any personal information collected from the  
7       consumer in connection with the submission of the  
8       consumer's opt-out request solely for the purposes of  
9       complying with the opt-out request.

10       (g) Nothing in this section shall be construed to require  
11       a business to comply with this section by including the required  
12       links and text on the homepage that the business makes available  
13       to the public generally; provided that the business maintains a  
14       separate and additional homepage that is dedicated to Hawaii  
15       consumers and includes the required links and text; provided  
16       further that the business takes reasonable steps to ensure that  
17       Hawaii consumers are directed to the homepage for Hawaii  
18       consumers and not the homepage made available to the public  
19       generally.

20       (h) A consumer may authorize another person solely to opt  
21       out of the sale of the consumer's personal information on the



1 consumer's behalf. A business shall comply with an opt out  
2 request received from a person authorized by the consumer to act  
3 on the consumer's behalf.

4 (i) For the purposes of this section, "third party" means  
5 a person who is not any of the following:

6 (1) The business that collects personal information from  
7 consumers under this section; or

8 (2) A person to whom the business discloses a consumer's  
9 personal information for a business purpose pursuant  
10 to a written contract; provided that the contract:

11 (A) Prohibits the person receiving the personal  
12 information from:

13 (i) Selling the personal information;

14 (ii) Retaining, using, or disclosing the personal  
15 information for any purpose other than for  
16 the specific purpose of performing the  
17 services specified in the contract,  
18 including retaining, using, or disclosing  
19 the personal information for a commercial  
20 purpose other than providing the services  
21 specified in the contract; or





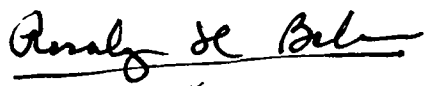
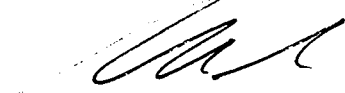
(iii) Retaining, using, or disclosing the  
information outside of the direct business  
relationship between the person and the  
business; and

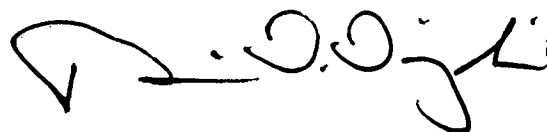
(B) Includes a certification made by the person  
receiving the personal information that the  
person understands the restrictions under  
subparagraph (A) and will comply with them."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: 





# S.B. NO. 2451

**Report Title:**

Personal Electronic Data; Third Parties; Consent

**Description:**

Prohibits a third party from selling or using personal information about a consumer that has been sold to the third party by a business unless the consumer has received explicit notice, provides express written consent, and is provided an opportunity to exercise the right to opt out. Specifies notification requirements for businesses.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

