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HOUSE BILL 2180

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Morris and Morrell

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1 AN ACT Relating to an individual's right to retain control of  
2 digital information; adding new sections to chapter 19.190 RCW;  
3 creating new sections; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the recent  
6 proliferation of social networking web sites and other online services,  
7 including mobile applications, has created an unprecedented opportunity  
8 for individuals to create a digital persona. The legislature finds  
9 that an individual has a privacy interest in his or her digital persona  
10 and a right to exercise some degree of control over how the individual  
11 projects himself or herself in the digital world. It is the intent of  
12 the legislature to ensure that individuals who visit internet web sites  
13 and use online or mobile services, such as social networking services,  
14 have the opportunity to remove content or information that they have  
15 posted, retaining control over information that contributes to their  
16 digital personas.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.190 RCW  
18 to read as follows:

1 The definitions in this subsection apply throughout this section  
2 and section 3 of this act unless the context clearly requires  
3 otherwise.

4 (1) "Operator" means any person or entity that owns a service. It  
5 does not include any third party that operates, hosts, or manages, but  
6 does not own, a service on the owner's behalf or processes information  
7 on the owner's behalf.

8 (2) "Posted" means content or information that can be accessed by  
9 a user in addition to the user who posted the content or information,  
10 whether the user who posted the content is a registered user or not, of  
11 the service where the content or information is posted.

12 (3) "Registered user" means a natural person who resides in the  
13 state and who has created an account for the purpose of accessing a  
14 service.

15 (4) "Service" means an internet web site, online service, online  
16 application, or mobile application, or a portion thereof.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.190 RCW  
18 to read as follows:

19 (1) An operator must:

20 (a) Permit a registered user of the operator's service to remove  
21 or, if the operator prefers, to request and obtain removal of content  
22 or information posted on the operator's service;

23 (b) Provide notice to a registered user of the operator's service  
24 to remove or, if the operator prefers, request and obtain removal of  
25 content or information posted on the operator's service;

26 (c) Provide clear and conspicuous instructions to a registered user  
27 of the operator's service on how the user may remove or, if the  
28 operator prefers, request and obtain the removal of content or  
29 information posted on the operator's service; and

30 (d) Provide notice to a registered user of the operator's service  
31 that the removal described under (a) of this subsection does not ensure  
32 complete or comprehensive removal of the content or information posted  
33 on the operator's service by the registered user.

34 (2) An operator or a third party is not required to erase or  
35 otherwise eliminate, or to enable erasure or elimination of, content or  
36 information if:

1 (a) Any other provision of federal or state law requires the  
2 operator or third party to maintain the content or information;

3 (b) The content or information was stored on or posted to the  
4 operator's service by a third party other than the registered user,  
5 including any content or information posted by the registered user that  
6 was stored, republished, or reposted by the third party;

7 (c) The operator anonymizes the content or information posted by  
8 the registered user, so that the registered user cannot be individually  
9 identified;

10 (d) The registered user does not follow clear and conspicuous  
11 instructions provided by the operator pursuant to subsection (1)(c) of  
12 this section in requesting or seeking to obtain the removal of content  
13 or information posted on the operator's service; or

14 (e) The registered user has received compensation or other  
15 consideration for providing the content. However, the mere provision  
16 of the service by the operator is not deemed compensation or  
17 consideration under this subsection.

18 (3) This section shall not be construed to limit the authority of  
19 a law enforcement agency to obtain any content or information from an  
20 operator as authorized by law or pursuant to an order of a court of  
21 competent jurisdiction.

22 (4) An operator shall be deemed compliant with this section if:

23 (a) It renders the content or information posted by the user no  
24 longer visible to other users of the service and the public even if the  
25 content or information remains on the operator's servers in some form;  
26 or

27 (b) Despite making the original posting by the user invisible, it  
28 remains visible because a third party has copied the posting or  
29 reposted the content or information posted by the user.

30 NEW SECTION. **Sec. 4.** This act may be known and cited as the  
31 digital world privacy rights act.

32 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2015.

33 NEW SECTION. **Sec. 6.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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