

HOUSE BILL REPORT

HB 1904

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to the sale and taxation of Washingtonians' personal information and related data.

Brief Description: Concerning the sale and taxation of Washingtonians' personal information and related data.

Sponsors: Representative Smith.

Brief History:

Committee Activity:

Technology & Economic Development: 2/9/17, 2/14/17, 3/1/17 [DPS], 1/16/18, 1/24/18 [DP3S].

Finance: 3/10/17, 3/14/17 [DPS].

Brief Summary of Third Substitute Bill

- Requires entities that generate a certain level of gross income from the sale of Washingtonians' personal information to register with the Department of Revenue.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 17 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Hudgins, Manweller, McDonald, Nealey, Santos, Slatter, Steele, Wylie and Young.

Staff: Lily Smith (786-7175).

Background:

According to the Federal Trade Commission, companies known as "data brokers" collect personal information from consumers and sell or share it with others. Data brokers collect

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this information from a wide variety of publically available sources, and use both raw and inferred data about those individuals to develop and market products, verify identities, and detect fraud. Consumers are often unaware of these practices.

Summary of Third Substitute Bill:

Entities generating at least \$100,000 per calendar year from the sale of Washingtonians' personal information must register with the Department of Revenue (Department). Registration must include an informational return and information regarding the business, including:

- the types of personal information sold;
- the types of entities to which the information is sold;
- how the information is obtained; and
- the gross income attributable to the sale of Washingtonians' information.

Failure to register or submission of incomplete or inaccurate information is subject to a fine of up to \$5,000.

The Department must submit a preliminary report to the Legislature no later than 120 days after application of the provisions, and a final report no later than December 15, 2019.

Third Substitute Bill Compared to Original Bill:

The third substitute bill:

- removes the imposition of a tax;
 - adds the registration requirements with the Department; and
 - modifies the definitions of "addresses," "engaging with the state," and "personal information."
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Third Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Data brokers hold an extensive number of data elements on every consumer. Data brokers are a growing industry consisting of thousands of companies, the majority out of state and yet profiting from Washingtonians' data. Consumers have no relationship with these businesses, are unaware of the information that is kept on them, and are unable to correct inaccuracies. This is not a fair market scenario; consumers cannot refuse to do business with these brokers, and their data is used to persuade them and make decisions

about them. The direct costs of this industry are seen in our state budgets. The bill is a modest first step in getting more information to help the Legislature construct the next step. Washington is a technology leader and cannot make good public policy without understanding the scope of this industry.

(Opposed) Data brokers with a nexus in Washington are already paying taxes. The bill uses overly broad definitions with unknown impacts. Some businesses use data for smaller tasks such as employment screening. Some businesses are already subject to fair credit reporting; this creates additional layers on existing state and federal legal requirements. Creating a list of companies with personal information could create a target for hackers.

(Other) The potential scope of businesses impacted is unknown, and these businesses may have a substantial economic impact. The definition of information covered is overly broad. To achieve the goal of transparency, it is necessary to work with stakeholders.

Persons Testifying: (In support) Representative Smith, prime sponsor; and Alex Alben, Office of Privacy and Data Protection.

(Opposed) Tom McBride, CompTIA.

(Other) Clay Hill, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.