
HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
OF POTENTIAL METHODS FOR RESTRICTING THE COLLECTION AND
SALE OF SENSITIVE CONSUMER DATA BY INTERNET SERVICE
PROVIDERS AND URGING HAWAII'S INTERNET SERVICE PROVIDERS TO
VOLUNTARILY REFRAIN FROM SUCH PRACTICES.

1 WHEREAS, the Hawaii Constitution recognizes the right of
2 the people to privacy, and directs the legislature to take
3 affirmative steps to protect their privacy; and
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5 WHEREAS, Internet Service Providers ("ISPs") have the
6 ability to monitor and collect many types of sensitive
7 information about consumers, including their web browsing
8 history, app usage history, precise geo-location, financial
9 information, health information, and even, in many cases, the
10 content of their communications; and
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12 WHEREAS, left unrestricted, ISPs can sell explicitly
13 targeted advertising on their networks via text message, mobile
14 applications, and web browsers, using sensitive information
15 gathered from a customer's unique browsing history; and
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17 WHEREAS, ISPs can share this sensitive information with
18 partner companies, or even sell it to other companies looking to
19 create targeted advertisements; and
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21 WHEREAS, to prevent this kind of exploitative behavior, the
22 Federal Communications Commission ("FCC") in October 2016
23 created rules that, if they had become effective, would have
24 required ISPs to refrain from selling or sharing consumers'
25 sensitive personal data without notifying the consumer and
26 obtaining their prior "opt-in" consent; and
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28 WHEREAS, those FCC rules would have also prohibited "take-
29 it-or-leave-it" offers, also known as adhesion contracts, which



1 currently proliferate throughout the industry, whereby consumers
2 must consent to the commercial use and sharing of their
3 sensitive data in order to receive any service and ISPs can
4 decline to serve consumers who do not consent; and
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6 WHEREAS, those FCC rules would have also heavily
7 scrutinized "pay for privacy" offerings, whereby companies can
8 exact a higher fee from customers who wish to avoid having their
9 sensitive personal data collected and sold for commercial
10 purposes; and
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12 WHEREAS, those FCC rules were never allowed to go into
13 effect, but instead were invalidated by Congress under the
14 rarely-used Congressional Review Act, an action that not only
15 invalidated these FCC privacy rules, but will prevent the FCC or
16 any other federal agency from creating similar rules unless
17 explicitly authorized by Congress; and
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19 WHEREAS, although an injunction that previously prevented
20 the Federal Trade Commission from regulating Internet Service
21 Providers was recently lifted by the United States Court of
22 Appeals for the Ninth Circuit, the regulatory power of the
23 Federal Trade Commission will never be as robust as that
24 previously afforded to the FCC under Title II of the Federal
25 Communications Act, leaving an important gap in regulatory
26 authority that must be filled by the state of Hawaii; now,
27 therefore,
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29 BE IT RESOLVED by the House of Representatives of the
30 Twenty-ninth Legislature of the State of Hawaii, Regular Session
31 of 2018, that the Legislative Reference Bureau is requested to
32 conduct a study on potential methods of preventing Internet
33 Service Providers from collecting and selling the sensitive data
34 of Hawaii's consumers; and
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36 BE IT FURTHER RESOLVED that the Department of Commerce and
37 Consumer Affairs is requested to provide information as may be
38 requested by the Bureau to assist in the timely completion of
39 the study; and
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1 BE IT FURTHER RESOLVED that internet service providers in
2 Hawaii, including Spectrum/Charter Communications, Comcast,
3 Hawaiian Telcom, and the major cellular service providers, are
4 strongly urged to protect the trust and privacy of their
5 customers by refusing to exploit personal data for marketing
6 purposes or to generate revenue; and
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8 BE IT FURTHER RESOLVED that certified copies of this
9 Resolution be transmitted to the Director of the Legislative
10 Reference Bureau, the Director of the Department of Commerce and
11 Consumer Affairs, and to the Presidents and CEOs respectively of
12 Spectrum Cable, Charter Communications, Comcast, Hawaiian
13 Telcom, CenturyLink, Verizon, AT&T, T-Mobile, and Sprint.
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