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# A BILL FOR AN ACT

RELATING TO PRIVACY.

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

1           SECTION 1. The legislature finds that the unregulated and  
2 unfettered sale of mobile device users' geolocation information,  
3 particularly data pertaining to sensitive locations like  
4 reproductive health clinics, poses significant implications with  
5 respect to the civil rights and liberties of residents and  
6 visitors to the State. Additionally, these sales may infringe  
7 upon citizens' right to an accessible, safe abortion by allowing  
8 purchasers to surveil mobile device users' activities in  
9 relation to reproductive health clinics.

10           In August 2022, the Federal Trade Commission sued a data  
11 broker corporation for the sale of hundreds of millions of  
12 mobile device users' geolocation information, finding that these  
13 sales identified and exposed individuals to dangers regarding  
14 discrimination, stigma, job loss, and physical violence.  
15 Central to their lawsuit are complaints about the role that  
16 geolocation information sales could play in disclosing users'  
17 private medical decisions, especially their protected use of



1 abortion services. By tracking individuals' movements around  
2 reproductive health clinics, the Federal Trade Commission  
3 alleges that data brokers put the identity and safety of those  
4 seeking abortion services at risk. Additionally, the Federal  
5 Trade Commission found that these sales could endanger those  
6 employed by reproductive health clinics, including medical  
7 professionals, social workers, and administrative staff.  
8 Nonconsensual sales of geolocation information can divulge home  
9 addresses and daily routines by monitoring users' physical  
10 movements, creating dangerous situations for citizens that the  
11 legislature finds unacceptable.

12 The legislature further finds that this is especially  
13 problematic for citizens seeking or providing abortion care in  
14 the State. The legislature believes that these sales not only  
15 infringe on citizens' privacy rights but also may inhibit access  
16 to safe abortion care. The legislature believes that the  
17 State's citizens should not be subject to these violations of  
18 their civil rights and liberties. The legislature has  
19 determined that comprehensive regulatory action on geolocation  
20 data is necessary to prevent the uncontrolled sale of  
21 geolocation information.



1           Accordingly, the purpose of this Act is to prohibit the  
2 sale of:

- 3           (1) Geolocation information without consent;
- 4           (2) Data collected through eavesdropping or through an  
5           application operating in the background of a device  
6           that uses the device's microphone; and

7           (3) Internet browser information without consent,  
8 with an exemption for lawful investigations conducted by law  
9 enforcement agencies in compliance with any constitutional or  
10 statutory provisions relating to privacy protections, customer  
11 proprietary network information regulated under federal law, and  
12 telecommunications carriers to the extent they are acting in  
13 compliance with applicable federal customer proprietary network  
14 information requirements.

15           SECTION 2. Chapter 481B, Hawaii Revised Statutes, is  
16 amended by adding two new sections to part I to be appropriately  
17 designated and to read as follows:

18           "§481B-    Sale of geolocation information without consent  
19 or data collected through eavesdropping; prohibited.   (a) No  
20 person, in any manner, or by any means, shall sell or offer for  
21 sale:



- 1        (1) Geolocation information that is recorded or collected  
2        through any means by a mobile device or location-based  
3        application without the explicit consent of the  
4        individual who is the primary user of the device or  
5        application; or
- 6        (2) Data that is recorded or collected through:  
7        (A) Eavesdropping; or  
8        (B) An application operating in the background of a  
9        device that uses the device's microphone.
- 10       (b) This section shall not apply to:
- 11       (1) Any lawful investigation conducted by any law  
12       enforcement agency in compliance with any  
13       constitutional or statutory provisions relating to  
14       privacy protections;
- 15       (2) Customer proprietary network information, as defined  
16       and regulated under title 47 United States Code  
17       section 222; or
- 18       (3) Any telecommunications carrier as defined in title 47  
19       United States Code section 153(51), to the extent the  
20       telecommunications carrier is acting in compliance



1           with applicable federal customer proprietary network  
2           information requirements.

3           (c) For the purposes of this section:

4           "Consent" means prior express opt-in authorization that may  
5 be revoked by the user at any time.

6           "Emergency" means the imminent or actual occurrence of an  
7 event that is likely to cause extensive injury, death, or  
8 property damage.

9           "Geolocation information" means information that is:

10          (1) Not the contents of a communication;

11          (2) Generated by or derived, in whole or in part, from the  
12 operation of a mobile device, including but not  
13 limited to a smart phone, tablet, fitness tracker,  
14 e-reader, or laptop computer; and

15          (3) Sufficient to determine or infer the precise location  
16 of the user of the device.

17          "Location-based application" means a software application  
18 that is downloaded or installed onto a device or accessed via a  
19 web browser that collects, uses, or stores geolocation  
20 information.

1 "Precise location" means any data that locates a user  
2 within a geographic area that is equal to or less than the area  
3 of a circle having a radius of 1,850 feet.

4 "Sale" means selling, renting, releasing, disclosing,  
5 disseminating, making available, transferring, or otherwise  
6 communicating orally, in writing, or by electronic or other  
7 means, a user's geolocation information to another business or a  
8 third party for monetary or other valuable consideration.

9 "Sale" does not include the releasing, disclosing,  
10 disseminating, making available, transferring, or otherwise  
11 communicating orally, in writing, or by electronic or other  
12 means, a user's geolocation information for the purpose of ,  
13 responding to an emergency.

14 "User" means a person who purchases or leases a device or  
15 installs or uses an application on a mobile device.

16 **§481B- Sale of internet browser information without**  
17 **consent; prohibited.** (a) No person, in any manner, or by any  
18 means, shall sell or offer for sale internet browser information  
19 without the explicit consent of the subscriber of the internet  
20 service.

21 (b) This section shall not apply to:



- 1        (1) Any lawful investigation conducted by any law  
2        enforcement agency in compliance with any  
3        constitutional or statutory provisions relating to  
4        privacy protections;
- 5        (2) Customer proprietary network information, as defined  
6        and regulated under title 47 United States Code  
7        section 222; or
- 8        (3) Any telecommunications carrier, as defined in title 47  
9        United States Code section 153(51), to the extent the  
10       telecommunications carrier is acting in compliance  
11       with applicable federal customer proprietary network  
12       information requirements.
- 13       (c) For the purposes of this section:
- 14       "Consent" means prior express opt-in authorization that may  
15       be revoked by the subscriber at any time.
- 16       "Internet browser information" means information from a  
17       person's use of the Internet, including:
- 18       (1) Web browsing history;  
19       (2) Application usage history;  
20       (3) The origin and destination internet protocol  
21       addresses;



1       (4) A device identifier, such as a media access control  
2           address, international mobile equipment identity, or  
3           internet protocol addresses; and

4       (5) The content of the communications comprising the  
5           internet activity.

6       "Internet service" means a retail service that provides the  
7       capability to transmit data to and receive data through the  
8       Internet using a dial-up service, a digital subscriber line,  
9       cable modem, fiber optics, wireless radio, satellite, powerline,  
10       or other technology used for a similar purpose.

11       "Sale" means the selling, renting, releasing, disclosing,  
12       disseminating, making available, transferring, or otherwise  
13       communicating orally, in writing, or by electronic or other  
14       means, of internet browser information to another business or a  
15       third party for monetary or other valuable consideration.

16       "Subscriber" means an applicant for or a current or former  
17       customer of an internet service."

18       SECTION 3. New statutory material is underscored.

19       SECTION 4. This Act shall take effect on January 1, 2077.



**Report Title:**

Privacy; Geolocation Information; Eavesdropping; Internet  
Browser Information; Exemptions

**Description:**

Prohibits the sale of geolocation information and internet browser information without consent. Prohibits the sale of data collected through eavesdropping or through an application operating in the background of a device that uses the device's microphone. Establishes exemptions for lawful investigations conducted by law enforcement agencies, customer proprietary network information, and certain telecommunication carriers. Effective 1/1/2077. (SD2)

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