

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3726 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Logan Phillips \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3726

By: Phillips

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to digital privacy; defining terms;  
9 requiring online businesses or websites to make  
10 posting of certain consumer information to be  
11 collected; listing information to be provided to  
12 consumer; listing information to be provided to  
13 consumer if consumer information is to be sold;  
14 providing penalties for violations; providing for  
15 certain civil action; allowing parties to seek  
16 guidance; authorizing the promulgation of rules;  
17 providing for codification; and providing an  
18 effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 764.2 of Title 15, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. As used in this section:

24 1. "Business" means a sole proprietorship, partnership, limited  
liability company, corporation, association, or other legal entity  
that is organized or operated for the profit or financial benefit of  
its shareholders or other owners, that collects consumers' personal

1 information, or on the behalf of which such information is collected  
2 and that alone, or jointly with others, determines the purposes and  
3 means of the processing of consumers' personal information, that  
4 does business in the State of Oklahoma;

5 2. "Business purpose" means the use of personal information for  
6 the business' or a service provider's operational purposes, or other  
7 notified purposes; provided, that the use of personal information  
8 shall be reasonably necessary and proportionate to achieve the  
9 operational purpose for which the personal information was collected  
10 or processed or for another operational purpose that is compatible  
11 with the context in which the personal information was collected.

12 Business purposes are:

- 13 a. auditing related to a current interaction with the  
14 consumer and concurrent transactions, including, but  
15 not limited to, counting ad impressions to unique  
16 visitors, verifying positioning and quality of ad  
17 impressions, and auditing compliance with this  
18 specification and other standards,
- 19 b. detecting security incidents, protecting against  
20 malicious, deceptive, fraudulent, or illegal activity,  
21 and prosecuting those responsible for that activity,
- 22 c. debugging to identify and repair errors that impair  
23 existing intended functionality,

24

- 1 d. short-term, transient use, provided the personal  
2 information that is not disclosed to another third  
3 party and is not used to build a profile about a  
4 consumer or otherwise alter an individual consumer's  
5 experience outside the current interaction, including,  
6 but not limited to, the contextual customization of  
7 ads shown as part of the same interaction,
- 8 e. performing services on behalf of the business or  
9 service provider, including maintaining or servicing  
10 accounts, providing customer service, processing or  
11 fulfilling orders and transactions, verifying customer  
12 information, processing payments, providing financing,  
13 providing advertising or marketing services, providing  
14 analytic services, or providing similar services on  
15 behalf of the business or service provider,
- 16 f. undertaking internal research for technological  
17 development and demonstration, and
- 18 g. undertaking activities to verify or maintain the  
19 quality or safety of a service or device that is  
20 owned, manufactured, manufactured for, or controlled  
21 by the business, and to improve, upgrade, or enhance  
22 the service or device that is owned, manufactured,  
23 manufactured for, or controlled by the business;
- 24

1       3. "Collects", "collected", or "collection" means buying,  
2 renting, gathering, obtaining, receiving, or accessing any personal  
3 information pertaining to a consumer by any means. This includes  
4 receiving information from the consumer, either actively or  
5 passively, or by observing the consumer's behavior;

6       4. "Commercial purposes" means to advance a person's commercial  
7 or economic interests, such as by inducing another person to buy,  
8 rent, lease, join, subscribe to, provide, or exchange products,  
9 goods, property, information, or services, or enabling or effecting,  
10 directly or indirectly, a commercial transaction. "Commercial  
11 purposes" does not include for the purpose of engaging in speech  
12 that state or federal courts have recognized as noncommercial  
13 speech, including political speech and journalism;

14       5. "Consumer" means a natural person who is an Oklahoma  
15 resident;

16       6. "Device" means any physical object that is capable of  
17 connecting to the Internet, directly or indirectly, or to another  
18 device;

19       7. "Homepage" means the introductory page of an Internet  
20 website and any Internet webpage where personal information is  
21 collected. In the case of an online service, such as a mobile  
22 application, homepage means the application's platform page or  
23 download page, a link within the application, such as from the  
24 application configuration "About", "Information", or settings page,

1 and any other location that allows consumers to review the posting  
2 required by subsection B of this section;

3 8. "Person" means an individual, proprietorship, firm,  
4 partnership, joint venture, syndicate, business trust, company,  
5 corporation, limited liability company, association, committee, and  
6 any other organization or group of persons acting in concert;

7 9. a. "Personal information" means information that  
8 identifies, relates to, describes, is capable of being  
9 associated with, or could reasonably be linked,  
10 directly or indirectly, with a particular consumer or  
11 household. Personal information includes, but is not  
12 limited to, the following:

13 (1) identifiers such as a real name, alias, postal  
14 address, unique personal identifier, online  
15 identifier Internet Protocol address, email  
16 address, account name, Social Security number,  
17 driver's license number, passport number, or  
18 other similar identifiers,

19 (2) characteristics of protected classifications  
20 under Oklahoma or federal law,

21 (3) commercial information, including records of  
22 personal property, products or services  
23 purchased, obtained, or considered, or other  
24 purchasing or consuming histories or tendencies,

- 1 (4) biometric information,
- 2 (5) Internet or other electronic network activity
- 3 information, including, but not limited to,
- 4 browsing history, search history, and information
- 5 regarding a consumer's interaction with an
- 6 Internet website, application, or advertisement,
- 7 (6) geolocation data,
- 8 (7) audio, electronic, visual, thermal, olfactory, or
- 9 similar information,
- 10 (8) professional- or employment-related information,
- 11 (9) education information, defined as information
- 12 that is not publicly available personally
- 13 identifiable information as defined in the Family
- 14 Educational Rights and Privacy Act pursuant to 20
- 15 U.S.C., Section 1232g, 34 C.F.R. Part 99, and
- 16 (10) inferences drawn from any of the information
- 17 identified in this subdivision to create a
- 18 profile about a consumer reflecting the
- 19 consumer's preferences, characteristics,
- 20 psychological trends, predispositions, behavior,
- 21 attitudes, intelligence, abilities, and
- 22 aptitudes.

23 b. "Personal information" does not include publicly

24 available information. For these purposes, "publicly

1 available" means information that is lawfully made  
2 available from federal, state, or local government  
3 records, if any conditions are associated with such  
4 information. "Publicly available" does not mean  
5 biometric information collected by a business about a  
6 consumer without the consumer's knowledge.

7 Information is not "publicly available" if that data  
8 is used for a purpose that is not compatible with the  
9 purpose for which the data is maintained and made  
10 available in the government records or for which it is  
11 publicly maintained;

12 10. "Processing" means any operation or set of operations that  
13 is performed on personal data or on sets of personal data, whether  
14 or not by automated means; and

15 11. "Sell", "selling", or "sold" means selling, renting,  
16 releasing, disclosing, disseminating, making available,  
17 transferring, or otherwise communicating orally, in writing, or by  
18 electronic or other means, a consumer's personal information by the  
19 business to another business or a third party for monetary or other  
20 valuable consideration.

21 B. Anyone or any business or website that operates an online  
22 business or webpage in this state that collects a consumer's  
23 personal digital information or data shall, before the point of  
24 collection, conspicuously post on its website homepage in a plain

1 readable format as to the categories of personal information to be  
2 collected and the purposes for which the categories of personal  
3 information shall be used. A business shall not collect additional  
4 categories of personal information or use personal information  
5 collected for additional purposes without providing the consumer  
6 with notice consistent with this section.

7 C. The website posting described in subsection B of this  
8 section shall provide the consumer the following:

9 1. The categories of personal information it will collect about  
10 that consumer;

11 2. The categories of sources from which the personal  
12 information is collected;

13 3. The business or commercial purpose for collecting or selling  
14 personal information;

15 4. The categories of third parties with whom the business will  
16 share personal information; and

17 5. The specific pieces of personal information it will collect  
18 about that consumer.

19 D. If the business or website sells the consumer's personal  
20 data information, or discloses such information for a business  
21 purpose, the website posting described in subsection B of this  
22 section shall provide the consumer the following:

23 1. The categories of personal information that the business  
24 will collect about the consumer;

1           2. The categories of personal information that the business  
2 will sell about the consumer and the categories of third parties to  
3 whom the personal information will be sold, by category or  
4 categories of personal information for each third party to whom the  
5 personal information will be sold. If the information to be  
6 collected will not be sold, the business shall disclose that fact;  
7 and

8           3. The categories of personal information that the business  
9 plans to disclose about the consumer for a business purpose. If the  
10 information to be collected will not be disclosed for a business  
11 purpose, the business shall disclose that fact.

12           E. A business or website shall be in violation of this title if  
13 it fails to cure any alleged violation within thirty (30) days after  
14 being notified of alleged noncompliance. Any business, service  
15 provider, or other person that violates the provisions of this act  
16 shall be subject to a fine of One Thousand Dollars (\$1,000.00) for  
17 the first violation and Five Thousand Dollars (\$5,000.00) for each  
18 additional violation. The penalties provided for in this subsection  
19 shall be exclusively assessed and recovered in a civil action  
20 brought by the Attorney General.

21           F. Any party subject to the provisions of this act may seek  
22 information from the Office of the Attorney General for guidance on  
23 how to comply with the provisions of this section. The Office of  
24

1 the Attorney General is authorized to promulgate rules to effectuate  
2 the provisions of this section.

3 SECTION 2. This act shall become effective November 1, 2020.  
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5 57-2-11048 JBH 02/12/20  
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