

Hall of the House of Representatives

84th General Assembly - Regular Session, 2003

Amendment Form

Subtitle of House Bill No. 2607

"INTERNET PRIVACY ACT."

Amendment No. 1 to House Bill No. 2607.

Amend House Bill No. 2607 as originally introduced:

Delete everything after the enactment clause and substitute the following:

"SECTION 1. Title.

This act shall be known as the "Internet Privacy Act".

SECTION 2. Definitions.

For purposes of this act:

(1) "Collect" means to gather personally identifiable information about a consumer by any means, except as otherwise provided in this act;

(2) "Consumer" means a person who uses an Internet service provider for access to the Internet for personal, family, or household purposes, and who does not resell access;

(3) "Disclose" means to release, publish, share, transfer, transmit, disseminate, show, or otherwise divulge personally identifiable information to any person, corporation, company, association, firm, partnership or other entity other than the individual who is the subject of the personally identifiable information;

(4) "Internet" means the global information system, comprising the interconnected world-wide network or networks that:

(A) Is logically linked together by a globally unique address space based on the Internet Protocol (IP) or its subsequent extensions;

(B) Is able to support communications using the Transmission Control Protocol/ Internet Protocol (TCP/IP) suite or its subsequent extensions/follow-ons, or other IP-compatible protocols; and

(C) Provides, uses, or makes accessible, either publicly or privately, high level data services layered on the communications and related infrastructure;

(5) "Internet service provider" means a person or business that provides consumers authenticated access to, or presence on, the Internet, by means of a switched or dedicated telecommunications channel upon which the provider provides transit routing or Internet Protocol (IP) packets for and on behalf of the consumer;

(6)(A) "Personally identifiable information" means information about an individual collected online, including the individual's first and last



name, electronic mail address, current and prior address, telephone number, social security number, date of birth, amount of income, account numbers, access codes, security passwords, credit card or debit card numbers, mother's maiden name, equipment or software serial number, and preferences of other designations that are capable of identifying a specific individual.

(B) "Personally identifiable information" does not include information that is collected that cannot be linked to a specific individual;

(7) "Third party" means anyone other than a consumer, Internet service provider, or an employee of the Internet service provider; and

(8) "User" means a person who uses an Internet service provider.

SECTION 3. Internet service providers.

(a) An Internet service provider shall not disclose any personally identifiable information about a user to a third party unless the provider has provided notice to the user as required under this act and has provided the consumer with the ability to electronically request at any time that the provider limit its disclosure of the user's personally identifiable information.

SECTION 4. Notice to consumers.

(a) An Internet service provider that maintains personally identifiable information of its users must provide the user, at the time that personally identifiable information is collected, with a clear and conspicuous notice substantially indicating:

(1) That personally identifiable information is collected, stored, or disclosed to third parties;

(2) What information is or will be collected, stored, or disclosed;

(3) A description of the methods of obtaining information, such as an electronic means of observing Internet browsing history or buying habits;

(4) The intended use of the information including marketing or online profiling;

(5) That the user may at any time direct the provider to limit the collection, disclosure, and storage of personally identifiable information, except to the extent that the information is necessary for the processing, billing, collection, and maintenance of an individual account;

(6) The period of time the information will be maintained; and

(7) A description of the procedures by which a user may correct any erroneous information.

(b) If the user has requested that the provider limit disclosure of any personally identifying information, the provider must comply with the request within a reasonable time period.

SECTION 5. Information security obligations.

In order to prevent the unauthorized access, disclosure, or release of personally identifiable information, each Internet service provider shall prepare and implement an information security policy that is applicable to the information security practices and treatment of personally identifiable information maintained by the provider, which shall be considered and approved by the provider's senior management.

SECTION 6. Permissible disclosure of personally identifiable information.

An Internet service provider may only disclose personally identifiable information under this act when:

(1) The provider has provided proper notice under Section 4 and has provided the user with the ability to electronically request at any time that the provider limit the disclosure of personally identifiable information;

(2) The information is published in response to the court order issued by a court of competent jurisdiction;

(3) The information is required to be disclosed under Arkansas law;

(4) The information will be used to evaluate, detect, or reduce the risk of fraud or other criminal activity, verify personally identifiable information provided by the consumer, or other risk management activity; or

(5) The information may be provided to a third party to perform services for, or functions on behalf of, the provider, if the provider enters into a contractual agreement with the third party that requires the third party to maintain the confidentiality and security of information.

SECTION 7. Enforcement.

(a) A violation of this act or a regulation prescribed under this act, shall be a deceptive and unconscionable trade practice under Arkansas Code § 4-88-107.

(b)(1) All remedies, penalties and authority granted to the Attorney General under Arkansas Code § 4-88-104 are available to the Attorney General for enforcement of this act.

(2) The remedies and penalties provided by this section are cumulative to each other and to the remedies or penalties available under other laws of this state.

SECTION 8. Scope.

This act applies to Internet service providers that supply Internet services to consumers in the State of Arkansas.”

The Amendment was read _____
By: Representative Creekmore
AAF/CDS - 031320031302
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Chief Clerk