

Attachment #3

Bill # 2017 - - H 6087, An Act Relating to Commercial Law - General Regulatory Provisions - Right-to-Know Act

2017 -- H 6087

LC002358

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

AN ACT

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- RIGHT-
TO-KNOW ACT

Introduced By: Representatives Shanley, Carson, Regunberg, Bennett, and
Marszalkowski

Date Introduced: April 06, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 48.1

4 RIGHT-TO-KNOW ACT

5 6-48.1-1. Short title.

6 This chapter shall be known and may be cited as the "Right-to-Know Act."

7 6-48.1-2. Legislative findings.

8 The General Assembly hereby finds and declares that:

9 (1) The right to privacy is a personal and fundamental right protected by the United
10 States Constitution. As such, all individuals have a right to privacy in information pertaining to
11 them. This state recognizes the importance of providing consumers with transparency about how
12 their personal information, especially information relating to their children, is shared by
13 businesses. This transparency is crucial for Rhode Island citizens to protect themselves and their
14 families from cyber-crimes and identity thieves.

15 (2) Furthermore, for free market forces to have a role in shaping the privacy practices and
16 for "opt-in" and "opt-out" remedies to be effective, consumers must be more than vaguely
17 informed that a business might share personal information with third parties. Consumers must be
18 better informed about what kinds of personal information is shared with other businesses. With

1 these specifics, consumers can knowledgeably choose to opt-in, opt-out, or choose among
2 businesses that disclose information to third parties on the basis of how protective the business is
3 of consumers' privacy.

4 (3) Businesses are now collecting personal information and sharing and selling it in ways
5 not contemplated or properly covered by the current law. Some websites are installing tracking
6 tools that record when consumers visit web pages, and sending very personal information, such as
7 age, gender, race, income, health concerns, religion, and recent purchases to third-party marketers
8 and data brokers. Third-party data broker companies are buying, selling, and trading personal
9 information obtained from mobile phones, financial institutions, social media sites, and other
10 online and brick and mortar companies. Some mobile applications are sharing personal
11 information, such as location information, unique phone identification numbers, and age, gender,
12 and other personal details with third-party companies.

13 (4) As such, consumers need to know the ways that their personal information is being
14 collected by companies and then shared or sold to third parties in order to properly protect their
15 privacy, personal safety, and financial security.

16 § 49.1-2, Definitions.

17 As used in this chapter:

18 (1) "Categories of personal information" includes, but is not limited to, the following:

19 (i) Identity information including, but not limited to, real name, alias, nickname, and user
20 name;

21 (ii) Address information, including, but not limited to, postal or e-mail;

22 (iii) Telephone number;

23 (iv) Account name;

24 (v) Social security number or other government-issued identification number, including,
25 but not limited to, social security number, driver's license number, identification card number,
26 and passport number;

27 (vi) Birthdate or age;

28 (vii) Physical characteristic information, including, but not limited to, height and weight;

29 (viii) Sexual information, including, but not limited to, sexual orientation, sex, gender
30 status, gender identity, and gender expression;

31 (ix) Race or ethnicity;

32 (x) Religious affiliation or activity;

33 (xi) Political affiliation or activity;

34 (xii) Professional or employment-related information;

1 (xiii) Educational information;

2 (xiv) Medical information, including, but not limited to, medical conditions or drugs,
3 therapies, mental health, or medical products or equipment used;

4 (xv) Financial information, including, but not limited to, credit, debit, or account
5 numbers, account balances, payment history, or information related to assets, liabilities, or
6 general creditworthiness;

7 (xvi) Commercial information, including, but not limited to, records of property, products
8 or services provided, obtained, or considered, or other purchasing or consumer histories or
9 tendencies;

10 (xvii) Location information;

11 (xviii) Internet or mobile activity information, including, but not limited to, Internet
12 protocol addresses or information concerning the access or use of any Internet or mobile-based
13 site or service;

14 (xix) Content, including text, photographs, audio or video recordings, or other material
15 generated by or provided by the customer; and

16 (xx) Any of the above categories of information as they pertain to the children of the
17 customer.

18 (2) "Customer" means an individual residing in this state who provides, either knowingly
19 or unknowingly, personal information to a private entity, with or without an exchange of
20 consideration, in the course of purchasing, viewing, accessing, renting, leasing, or otherwise
21 using real or personal property, or any interest therein, or obtaining a product or service from the
22 private entity, including advertising or any other content.

23 (3) "Designated request address" means an email address or toll-free telephone number
24 whereby customers may request or obtain the information required to be provided under §6-48.1-
25 4.

26 (4) "Disclose" means to disclose, release, transfer, share, disseminate, make available, or
27 otherwise communicate orally, in writing, or by electronic or any other means to any third party.

28 "Disclose" does not include the following:

29 (i) Disclosure of personal information by a private entity to a third party under a written
30 contract authorizing the third party to utilize the personal information to perform services on
31 behalf of the private entity, including maintaining or servicing accounts, providing customer
32 service, processing or fulfilling orders and transactions, verifying customer information,
33 processing payments, providing financing, or similar services, but only if:

34 (A) The contract prohibits the third party from using the personal information for any

1 reason other than performing the specified service or services on behalf of the private entity and
2 from disclosing any such personal information to additional third parties; and

3 (B) The private entity effectively enforces these prohibitions.

4 (ii) Disclosure of personal information by a business to a third party based on a good-
5 faith belief that disclosure is required to comply with applicable law, regulation, legal process, or
6 court order.

7 (iii) Disclosure of personal information by a private entity to a third party that is
8 reasonably necessary to address fraud, security, or technical issues; to protect the disclosing
9 private entity's rights or property; or to protect customers or the public from illegal activities as
10 required or permitted by law.

11 (5) "Operator" means any person or entity that owns an Internet website located or an
12 online service that collects and maintains personally identifiable information from a customer
13 residing in this state who uses or visits the website or online service if the website or online
14 service is operated for commercial purposes. It does not include any third party that operates,
15 hosts, or manages, but does not own, a website or online service on the owner's behalf or by
16 processing information on behalf of the owner.

17 (6)(i) "Personal information" means any information that identifies, relates to, describes,
18 or is capable of being associated with, a particular individual, including, but not limited to, their
19 name, signature, physical characteristics or description, address, telephone number, passport
20 number, driver's license or state identification card number, insurance policy number, education,
21 employment, employment history, bank account number, credit card number, debit card number,
22 or any other financial information.

23 (ii) "Personal information" also means any data or information pertaining to an
24 individual's income, assets, liabilities, purchases, leases, or rentals of goods, services, or real
25 property, if that information is disclosed, or is intended to be disclosed, with any identifying
26 information, such as the individual's name, address, telephone number, or social security number.

27 (7) "Third party" or "third parties" means:

28 (i) A private entity that is a separate legal entity from the private entity that has disclosed
29 personal information;

30 (ii) A private entity that does not share common ownership or common corporate control
31 with the private entity that has disclosed personal information; or

32 (iii) A private entity that does not share a brand name or common branding with the
33 private entity that has disclosed personal information such that the affiliate relationship is clear to
34 the customer.

1 6-48.1-4. Notification of information sharing practices.

2 An operator of a commercial website or online service that collects personally
3 identifiable information through the Internet about individual customers residing in this state who
4 use or visit its commercial website or online service shall, in its customer agreement or
5 incorporated addendum;

6 (1) Identify all categories of personal information that the operator collects through the
7 website or online service about individual customers who use or visit its commercial website or
8 online service;

9 (2) Identify all categories of third-party persons or entities with whom the operator may
10 disclose that personally identifiable information; and

11 (3) Provide a description of a customer's rights, as required under §6-48.1-6,
12 accompanied by one or more designated request addresses.

13 6-48.1-5. Disclosure of a customer's personal information to a third party.

14 (a) An operator that discloses a customer's personal information to a third party shall
15 make the following information available to the customer free of charge:

16 (1) All categories of personal information that were disclosed; and

17 (2) The names of all third parties that received the customer's personal information.

18 (b) This section applies only to personal information disclosed after the effective date of
19 this chapter.

20 6-48.1-6. Information availability service.

21 (a) An operator required to comply with §6-48.1-5 shall make the required information
22 available by providing a designated request address in its customer agreement or incorporated
23 addendum, and, upon receipt of a request under this section, shall provide the customer with the
24 information required under §6-48.1-5 for all disclosures occurring in the prior twelve (12)
25 months.

26 (b) An operator that receives a request from a customer under this section at one of the
27 designated addresses shall provide a response to the customer within thirty (30) days.

28 6-48.1-7. Right of action.

29 Any person whose rights under this chapter are violated shall have a right of action
30 against an offending party, and shall recover:

31 (i) Liquidated damages of ten dollars (\$10.00) or actual damages, whichever is greater;

32 (ii) Injunctive relief, if appropriate; and

33 (iii) Reasonable attorneys' fees, costs, and expenses.

34 6-48.1-8. Waivers; Contracts.

1 Any waiver of the provisions of this chapter shall be void and unenforceable. Any
2 agreement that does not comply with the applicable provisions of this chapter shall be void and
3 unenforceable.

4 6--18.1-9. Construction.

5 (a) Nothing in this chapter shall be construed to conflict with the Federal Health
6 Insurance Portability and Accountability Act of 1996 and the rules promulgated under that act.

7 (b) Nothing in this chapter shall be deemed to apply in any manner to a financial
8 institution or an affiliate of a financial institution that is subject to Title V of the Federal Gramm-
9 Leach-Bliley Act of 1999 and the rules promulgated under that act.

10 (c) Nothing in this chapter shall be deemed to apply to the activities of an individual or
11 entity to the extent that those activities are subject to Section 222 or 631 of the Federal
12 Communications Act of 1934.

13 (d) Nothing in this chapter shall be construed to apply to a contractor, subcontractor, or
14 agent of a state agency or local unit of government when working for that state agency or local
15 unit of government.

16 SECTION 2. This act shall take effect on July 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

AN ACT
RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- RIGHT-
TO-KNOW ACT

1 This act would protect individuals of this state from disclosure of personally identifiable
2 information through the Internet by operators of commercial websites or online services and
3 would create a right of action for any operator violations.

4 This act would take effect on July 1, 2017.

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