

HB1654/753426/1

BY: Delegate Morgan

AMENDMENTS TO HOUSE BILL 1654

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 24, after the semicolon insert “specifying the circumstances under which a membership-based website may handle certain registered user personal information in a certain manner; establishing a mechanism through which a membership-based website may obtain registered user consent to have certain personal information handled in a certain manner; prohibiting a membership-based website from taking certain actions based on whether a registered user has consented to have certain registered user personal information handled in a certain manner; specifying the circumstances under which a membership-based website may handle certain registered user personal information in a certain manner without consent from a registered user; authorizing a membership-based website to handle certain registered user personal information in a certain manner for the purpose of advertising or marketing to the registered user; requiring a membership-based website to disclose certain registered user personal information under certain circumstances; requiring a membership-based website to implement certain measures to protect certain registered user personal information; authorizing a membership-based website to take certain actions to comply with the requirement to implement certain measures to protect certain registered user personal information; prohibiting a membership-based website from retaining certain registered user personal information for longer than a certain amount of time, subject to certain exceptions; requiring a membership-based website to provide certain notice; specifying that a certain term in a contract is void and unenforceable under certain circumstances;”.

On page 2, in line 6, strike “14-4109” and substitute “14-4114”.

AMENDMENT NO. 2

(Over)

On page 4, in line 24, after “(H)” insert “MEMBERSHIP-BASED WEBSITE” MEANS ANY COMPUTER PROGRAM, SOFTWARE, OR WEBSITE THAT ALLOWS AN INDIVIDUAL TO BECOME A REGISTERED USER BY CREATING AN ACCOUNT WITH THE COMPUTER PROGRAM, SOFTWARE, OR WEBSITE.

(I)”;

and after line 28, insert:

“(J) “REGISTERED USER” MEANS AN INDIVIDUAL OR ANY OTHER PERSON WHO CREATES AN ACCOUNT WITH A MEMBERSHIP-BASED WEBSITE.

(K) (1) “REGISTERED USER PERSONAL INFORMATION” MEANS INFORMATION THAT IS COLLECTED BY OR MADE AVAILABLE TO A MEMBERSHIP-BASED WEBSITE SOLELY THROUGH THE REGISTERED USER-MEMBERSHIP-BASED WEBSITE RELATIONSHIP.

(2) “REGISTERED USER PERSONAL INFORMATION” INCLUDES:

(I) NAME AND BILLING INFORMATION;

(II) GOVERNMENT-ISSUED IDENTIFIERS, SUCH AS SOCIAL SECURITY NUMBER OR A DRIVER’S LICENSE NUMBER;

(III) OTHER CONTACT INFORMATION, SUCH AS A PHYSICAL ADDRESS, AN E-MAIL ADDRESS, OR A TELEPHONE NUMBER;

(IV) DEMOGRAPHIC INFORMATION, SUCH AS DATE OF BIRTH, AGE, RACE, ETHNICITY, NATIONALITY, RELIGION, POLITICAL BELIEFS, GENDER, OR SEXUAL ORIENTATION;

(V) FINANCIAL INFORMATION, HEALTH INFORMATION, OR INFORMATION PERTAINING TO CHILDREN;

(VI) GEOLOCATION INFORMATION THAT IS SUFFICIENT TO IDENTIFY A STREET NAME AND THE NAME OF A CITY OR TOWN;

(VII) INFORMATION RELATING TO A REGISTERED USER THAT IS COLLECTED OR MADE AVAILABLE AND MAINTAINED IN A WAY THAT THE INFORMATION IS LINKED OR ABLE TO BE LINKED THROUGH REASONABLE EFFORTS TO A REGISTERED USER; AND

(VIII) INFORMATION THAT IS RELATED TO A REGISTERED USER, DESPITE THE REGISTERED USER'S IDENTITY AND CHARACTERISTICS HAVING BEEN REMOVED.”.

AMENDMENT NO. 3

On page 4, in line 30, strike “A” and substitute “:

(1) A MEMBERSHIP-BASED WEBSITE OPERATING IN THE STATE TO PROVIDE SERVICES TO A REGISTERED USER IN THE STATE; AND

(2) A”.

On page 9, after line 1, insert:

“(A) A MEMBERSHIP-BASED WEBSITE MAY USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO REGISTERED USER PERSONAL INFORMATION IF THE MEMBERSHIP-BASED WEBSITE OBTAINS OPT-IN CONSENT THAT THE REGISTERED USER HAS NOT REVOKED.

(Over)

(B) EXCEPT AS PROVIDED IN § 14-4109 OF THIS SUBTITLE, A MEMBERSHIP-BASED WEBSITE MAY NOT USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO A REGISTERED USER'S PERSONAL INFORMATION WITHOUT OPT-IN CONSENT FROM THE REGISTERED USER.

(C) IN ORDER TO DETERMINE WHETHER A MEMBERSHIP-BASED WEBSITE HAS RECEIVED OPT-IN CONSENT, THE MEMBERSHIP-BASED WEBSITE SHALL DEVELOP A MECHANISM FOR REGISTERED USERS TO GRANT, DENY, OR REVOKE CONSENT THAT IS:

(1) EASY TO USE AND UNDERSTAND;

(2) NOT MISLEADING;

(3) CONTINUOUSLY AVAILABLE THROUGH ALL METHODS THAT THE MEMBERSHIP-BASED WEBSITE USES TO MANAGE ACCOUNTS;

(4) IN THE LANGUAGE THAT THE MEMBERSHIP-BASED WEBSITE PRIMARILY USES TO CONDUCT BUSINESS WITH THE REGISTERED USER; AND

(5) MADE AVAILABLE TO THE REGISTERED USER FOR NO ADDITIONAL CHARGE.

(D) A REGISTERED USER'S GRANT, DENIAL, OR REVOCATION OF CONSENT SHALL BE GIVEN EFFECT PROMPTLY AND REMAIN IN EFFECT UNTIL THE REGISTERED USER REVOKES OR LIMITS THE GRANT, DENIAL, OR REVOCATION OF CONSENT.

(E) A MEMBERSHIP-BASED WEBSITE MAY NOT:

(1) REFUSE TO ALLOW ACCESS TO THE MEMBERSHIP-BASED WEBSITE TO A REGISTERED USER WHO DOES NOT PROVIDE CONSENT UNDER THIS SECTION; OR

(2) CHARGE A REGISTERED USER A HIGHER PRICE OR OFFER A REGISTERED USER A DISCOUNTED PRICE BASED ON THE REGISTERED USER'S DECISION TO PROVIDE OR NOT PROVIDE OPT-IN CONSENT.

14-4109.

(A) NOTWITHSTANDING § 14-4108 OF THIS SUBTITLE, A MEMBERSHIP-BASED WEBSITE MAY USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO REGISTERED USER PERSONAL INFORMATION WITHOUT OPT-IN CONSENT FROM A REGISTERED USER TO:

(1) USE THE INFORMATION WHEN IT IS DERIVED FROM OR NECESSARY FOR THE OPERATION OF THE MEMBERSHIP-BASED WEBSITE;

(2) COMPLY WITH LEGAL PROCESS OR OTHER LAWS, COURT ORDERS, OR ADMINISTRATIVE ORDERS;

(3) INITIATE, RENDER, BILL FOR, AND COLLECT PAYMENTS; OR

(4) PROVIDE LOCATION INFORMATION CONCERNING THE REGISTERED USER:

(I) IF A REGISTERED USER HAS REQUESTED EMERGENCY SERVICES, TO A PUBLIC SAFETY ANSWERING POINT, AN EMERGENCY MEDICAL

(Over)

SERVICE PROVIDER OR AN EMERGENCY DISPATCH PROVIDER, A PUBLIC SAFETY, FIRE SERVICE, OR LAW ENFORCEMENT OFFICIAL, OR A HOSPITAL EMERGENCY OR TRAUMA CARE FACILITY;

(II) IF AN EMERGENCY SITUATION ARISES THAT INVOLVES THE RISK OF DEATH OR SERIOUS INJURY, TO THE REGISTERED USER'S LEGAL GUARDIAN, MEMBERS OF THE REGISTERED USER'S FAMILY, OR A PERSON REASONABLY BELIEVED BY THE MEMBERSHIP-BASED WEBSITE TO BE A CLOSE PERSONAL FRIEND OF THE REGISTERED USER; OR

(III) IF THE DELIVERY OF EMERGENCY SERVICES IS NEEDED, TO PROVIDERS OF INFORMATION OR DATABASE MANAGEMENT SERVICES.

(B) EXCEPT AS OTHERWISE PROVIDED IN STATE LAW, UNLESS A REGISTERED USER HAS OPTED OUT OF RECEIVING THE COMMUNICATION, A MEMBERSHIP-BASED WEBSITE MAY USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO REGISTERED USER PERSONAL INFORMATION TO ADVERTISE OR MARKET THE MEMBERSHIP-BASED WEBSITE'S SERVICES TO THE REGISTERED USER.

(C) ON WRITTEN REQUEST BY A REGISTERED USER, THE MEMBERSHIP-BASED WEBSITE SHALL DISCLOSE REGISTERED USER PERSONAL INFORMATION TO THE REGISTERED USER OR TO ANY PERSON THAT THE REGISTERED USER DESIGNATES.

14-4110.

(A) (1) A MEMBERSHIP-BASED WEBSITE SHALL IMPLEMENT REASONABLE MEASURES TO PROTECT REGISTERED USER PERSONAL INFORMATION FROM UNAUTHORIZED USE, DISCLOSURE, SALE, ACCESS,

DESTRUCTION, OR MODIFICATION.

(2) THE REASONABLENESS OF THE MEMBERSHIP-BASED WEBSITE'S SECURITY MEASURES SHALL BE BASED ON AN ASSESSMENT OF:

(I) THE NATURE AND SCOPE OF THE MEMBERSHIP-BASED WEBSITE'S ACTIVITIES;

(II) THE SENSITIVITY OF THE DATA IT COLLECTS;

(III) THE SIZE OF THE MEMBERSHIP-BASED WEBSITE; AND

(IV) THE TECHNICAL FEASIBILITY OF THE MEASURES.

(B) A MEMBERSHIP-BASED WEBSITE MAY EMPLOY ANY LAWFUL SECURITY MEASURE TO COMPLY WITH THE REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MEMBERSHIP-BASED WEBSITE MAY NOT RETAIN REGISTERED USER PERSONAL INFORMATION FOR LONGER THAN REASONABLY NECESSARY TO ACCOMPLISH THE PURPOSES FOR WHICH THE INFORMATION WAS COLLECTED.

(2) A MEMBERSHIP-BASED WEBSITE MAY RETAIN REGISTERED USER PERSONAL INFORMATION FOR LONGER THAN REASONABLY NECESSARY IF:

(I) THE RETENTION IS REQUIRED BY § 14-4109 OF THIS SUBTITLE; OR

(II) THE DATA IS PART OF AN AGGREGATE REGISTERED USER PERSONAL INFORMATION DATASET.

14-4111.

(A) A MEMBERSHIP-BASED WEBSITE SHALL PROVIDE NOTICE OF THE REQUIREMENTS OF THIS SUBTITLE THAT IS:

(1) IN THE LANGUAGE THAT THE MEMBERSHIP-BASED WEBSITE PRIMARILY USES TO CONDUCT BUSINESS WITH THE REGISTERED USER; AND

(2) CONTINUOUSLY AVAILABLE THROUGH ALL METHODS THAT THE MEMBERSHIP-BASED WEBSITE USES TO MANAGE ACCOUNTS.

(B) THE NOTICE SHALL SPECIFY AND DESCRIBE, OR LINK TO A RESOURCE THAT SPECIFIES AND DESCRIBES:

(1) THE TYPES OF REGISTERED USER PERSONAL INFORMATION THAT THE MEMBERSHIP-BASED WEBSITE COLLECTS, THE WAYS IN WHICH THE MEMBERSHIP-BASED WEBSITE USES THE INFORMATION, AND THE LENGTH OF TIME THAT THE MEMBERSHIP-BASED WEBSITE RETAINS THE INFORMATION;

(2) THE CIRCUMSTANCES UNDER WHICH THE MEMBERSHIP-BASED WEBSITE DISCLOSES, SELLS, OR PROVIDES ACCESS TO THE INFORMATION THAT IT COLLECTS;

(3) THE CATEGORIES OF ENTITIES TO WHICH THE MEMBERSHIP-BASED WEBSITE DISCLOSES, SELLS, OR PROVIDES ACCESS TO REGISTERED USER PERSONAL INFORMATION AND THE PURPOSES FOR WHICH EACH CATEGORY OF

ENTITY WILL USE THE INFORMATION; AND

(4) THE REGISTERED USER’S RIGHT TO CONSENT WITH REGARD TO THE USE, DISCLOSURE, SALE, OR ACCESS TO REGISTERED USER PERSONAL INFORMATION AND HOW THAT RIGHT MAY BE EXERCISED.

(C) BEFORE A MEMBERSHIP–BASED WEBSITE MAY MAKE MATERIAL CHANGES TO HOW IT USES, DISCLOSES, SELLS, OR PROVIDES ACCESS TO REGISTERED USER PERSONAL INFORMATION, THE MEMBERSHIP–BASED WEBSITE SHALL:

(1) PROVIDE ADVANCE NOTICE OF THE CHANGE; AND

(2) REMIND REGISTERED USERS OF THE ABILITY TO GRANT, DENY, OR REVOKE CONSENT AT ANY TIME.

14-4112.

NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO RESTRICT A MEMBERSHIP–BASED WEBSITE FROM:

(1) GENERATING AN AGGREGATE REGISTERED USER PERSONAL INFORMATION DATASET USING REGISTERED USER PERSONAL INFORMATION; OR

(2) USING, DISCLOSING, SELLING, OR AUTHORIZING ACCESS TO AN AGGREGATE REGISTERED USER PERSONAL INFORMATION DATASET THAT THE MEMBERSHIP–BASED WEBSITE HAS GENERATED.

14-4113.”;

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and in line 5, strike "**14-4109.**" and substitute "**14-4114.**".