By Representative Hudgins

HB 2742 - H COMM AMD
By Committee on Innovation, Technology & Economic Development

On page 7, beginning on line 18, strike all of section 4 and insert the following:

"NEW SECTION. **Sec. 4.** JURISDICTIONAL SCOPE. (1) This chapter applies to legal entities that conduct business in Washington or produce products or services that are targeted to residents of Washington.

(2) This chapter does not apply to:

(a) State and local governments;

(b) Municipal corporations;

(c) Legal entities that:

(i) Have fewer than ten employees;

(ii) Have gross annual revenues of less than five million dollars;

(iii) Derive less than five percent of annual gross revenues from the sale or monetization of personal data at fair market value;

(iv) Control or process personal data of fewer than twenty thousand consumers; and

(v) Do not disclose or share personal data of consumers other than as necessary for providing products or services requested by consumers or for purposes of selling or monetizing personal data within the limits set in (c)(iii) of this subsection.

(d) Information that meets the definition of:

(i) Protected health information for purposes of the federal health insurance portability and accountability act of 1996 and related regulations;

(ii) Health care information for purposes of chapter 70.02 RCW;

(iii) Patient identifying information for purposes of 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290dd-2;

(iv) Identifiable private information for purposes of the federal policy for the protection of human subjects, 45 C.F.R. Part 46, or identifiable private information that is otherwise information

collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the international council for harmonisation, or the protection of human subjects under 21 C.F.R. Parts 50 and 56;

(v) Information and documents created specifically for, and collected and maintained by:

(A) A quality improvement committee for purposes of RCW 43.70.510, 70.230.080, or 70.41.200;

(B) A peer review committee for purposes of RCW 4.24.250;

(C) A quality assurance committee for purposes of RCW 74.42.640 or 18.20.390;

(D) A hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections for purposes of RCW 43.70.056, a notification of an incident for purposes of RCW 70.56.040(5), or reports regarding adverse events for purposes of RCW 70.56.020(2)(b);

(vi) Information and documents created for purposes of the federal health care quality improvement act of 1986, and related regulations; or

(vii) Patient safety work product for purposes of 42 C.F.R. Part 3, established pursuant to 42 U.S.C. Sec. 299b-21 through 299b-26;

(e) Information originating from, and intermingled to be indistinguishable with, information under (d) of this subsection that is maintained by:

(i) A covered entity or business associate as defined by the health insurance portability and accountability act of 1996 and related regulations;

(ii) A health care facility or health care provider as defined in RCW 70.02.010; or

(iii) A program or a qualified service organization as defined by 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290dd-2;

(f) An activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, as defined in Title 15 U.S.C. Sec. 1681a(f), by a furnisher of information, as set forth in Title 15 U.S.C. Sec. 1681s-2, who provides information for use in a consumer report, as defined in Title 15 U.S.C. Sec. 1861a(d), and by a user of a consumer report, as set forth in Title 15 U.S.C. Sec. 1681b.

Such activity involving the collection, maintenance, disclosure, sale, communication, or use of such information by that agency, furnisher, or user is subject to regulation under the fair credit reporting act, Title 15 U.S.C. Sec. 1681 et seq., and the information may not be used, communicated, disclosed, or sold except as authorized by the fair credit reporting act;

(g) Personal data collected and maintained for purposes of chapter 43.71 RCW;

(h) Personal data collected, processed, sold, or disclosed pursuant to the federal Gramm-Leach-Bliley act (P.L. 106-102), and implementing regulations, if the collection, processing, sale, or disclosure is in compliance with that law;

(i) Personal data collected, processed, sold, or disclosed pursuant to the federal driver's privacy protection act of 1994 (18 U.S.C. Sec. 2721 et seq.), if the collection, processing, sale, or disclosure is in compliance with that law;

(j) Controllers that are in compliance with the verifiable parental consent mechanisms under the children's online privacy protection act, Title 15 U.S.C. Sec. 6501 through 6506 and its implementing regulations. Controllers shall be deemed compliant with any obligation to obtain parental consent under this chapter;

(k) Personal data regulated by the federal family educations rights and privacy act, 20 U.S.C. Sec. 1232g and its implementing regulations;

(l) Personal data regulated by the student user privacy in education rights act, chapter 28A.604 RCW; or

(m) Data maintained for employment records purposes."

EFFECT: Removes from the jurisdictional scope section the thresholds that a business must meet in order to be subject to the bill to provide that the bill applies to legal entities that conduct business in Washington or produce products or services that are targeted to residents of Washington. Exempts from the provisions of the bill legal entities that fall below a certain size and annual revenue amount, that control or process personal data of fewer than 20,000 consumers, and that do not disclose or share consumer data other than as necessary to provide requested products or services or that monetize personal data within the limits set in the exemption.

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