



February 9, 2021

The Honorable Mike Lefor, Chair
House Committee on Industry, Business & Labor
North Dakota State Legislature
Bismarck ND

RE: Internet Association’s Opposition to HB 1330.

Dear Chair Lefor and Members of the Committee:

Internet Association (IA) appreciates the opportunity to provide feedback on HB 1330. While IA agrees consumers should have meaningful and easily understood controls over their personal information, we do not believe this proposed legislation is the most effective mechanism to do so.

IA represents more than 40 of the world's leading internet companies and advances public policy solutions that foster innovation, promote economic growth, and empower people through the free and open internet.

IA companies know that trust is fundamental to their relationship with consumers. Our member companies recognize that to be successful they must meet consumers’ reasonable expectations about how the personal information they provide to companies will be collected, used, and shared. That is why our member companies are committed to transparent data practices, and are continually refining their consumer-facing policies to ensure they are clear, accurate, and easily understood by all consumers.

IA is concerned about the implications of HB 1330 due to its broad language and lack of clearly defined terminology. The definition of “protected data” only includes a list of vague terms that are considered “protected data,” but does not further define words such as “child” or “interests.” This will lead to covered entities being confused as to which information is protected under the proposed chapter. For example, the federal Children’s Online Privacy Protection Act (COPPA) defines a child as 13 years or younger, but without a definition of “child” it would be impossible for a covered entity to appropriately identify a child and their information.

Moreover, the term “sale” is consistently found throughout the bill. However, the bill’s definition section does not include what actions are considered a “sale” under this chapter. Without a definition, this creates a great deal of uncertainty for covered entities that are required to provide an opt-in mechanism for users before their “protected data” is sold. Additionally, in the absence of clear guidance about whether a user needs to be notified with an opt-in prompt before or after the protected data is sold creates confusion for covered entities to implement this requirement under the chapter, and does not create a stable way for users to know when their information is being sold.

IA strongly opposes the inclusion of a private right of action (PRA) as the primary enforcement mechanism. Instead, IA member companies believe that the most effective way to enforce a consumer’s state privacy rights is through the state’s attorney general.



For these reasons, IA strongly recommends you not move this bill out of committee. I appreciate your consideration. If you have any questions please do not hesitate to reach out at 206-326-0712 or rose@internetassociation.org

Sincerely,

A handwritten signature in black ink, appearing to read 'Rose Feliciano', with a long horizontal line extending to the right.

Rose Feliciano
Director, Northwest Region, State Government Affairs