

Unofficial Draft Copy

As of: May 31, 2016 (3:55pm)

LC0074

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act establishing a Montana online privacy act; requiring certain commercial website operators to post privacy policies concerning the collection, use, and sharing of personal information; specifying notice and content requirements; providing for enforcement; providing a civil penalty; and providing an effective date."

WHEREAS, the state administration and veterans' affairs interim committee conducted a study under House Joint Resolution 21 (2015) that encompassed the online collection, use, and sharing of personal information; and

WHEREAS, the committee found that although it is an internationally-accepted best practice that commercial websites post privacy policies giving online consumers notice about what personal information is collected when they visit a website and how the information will be used or shared, there is no federal law requiring privacy policies; and

WHEREAS, when a commercial website is collecting personal information, Montana's online consumers have a right to know what information is collected, how it will be used, and whether it will be shared with third parties; and

WHEREAS, several other states have enacted laws requiring

privacy policies.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana Online Privacy Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Commercial website" means a website operated by a for-profit entity.

(2) "Operator" means any person or entity that owns a website.

(3) "Personal information" means one or more of the following pieces of information:

(a) a first and last name;

(b) a home or other physical address, including street name and name of a city or town;

(c) an e-mail address;

(d) a telephone number;

(e) a social security number; or

(f) any other identifier that permits the physical or online contacting of a specific individual.

(4) "Third party" means any person or entity that is not the operator and includes an affiliate or subsidiary of the operator that has a different business name.

NEW SECTION. **Section 3. Privacy policy required -- notice and content requirements.** (1) An operator of a commercial website that collects by any means personal information about an individual residing in Montana who uses or visits the operator's website is subject to the provisions of [sections 1 through 4].

(2) (a) The operator shall ensure that a privacy policy is conspicuously posted on the website and that the privacy policy is written in reasonably clear language and presented in a reasonably easy to read font typeface and size.

(b) The operator shall ensure that the website complies with the posted privacy policy.

(3) The privacy policy must inform individuals about:

(a) what personal information is collected;

(b) the purpose for collecting the personal information and how the information will be used;

(c) whether the personal information will be shared with or sold to one or more third parties and if so, the identity of the third party or parties;

(d) the choices an individual has and how those choice may be exercised with respect to limiting or controlling the website's collection of the individual's personal information, how the operator will use the information, and whether and how the operator will share or sell the information;

(e) what rights an individual has with respect to accessing the individual's collected personal information and to either correct or delete it;

(f) how to contact the appropriate person within the

operator's organization if an individual has a question or complaint related to the privacy policy; and

(e) how to contact the state entity that has authority to enforce the provisions of [sections 1 through 4].

NEW SECTION. **Section 4. Enforcement authority -- violation defined -- civil penalty -- disposition of fines.** (1) The office of attorney general shall enforce the provisions of [sections 1 through 4].

(2) A website operator is in violation of a provision of [sections 1 through 4] if the operator either knowingly and willfully or negligently and materially fails to comply with a provision of [sections 1 through 4] within 30 days of being notified by the office of attorney general of the operator's noncompliance.

(3) An operator who violates a provision of [sections 1 through 4] may be fined an amount not to exceed \$10,000 for each month or fraction of a month that the website operates in violation of a provision of [sections 1 through 4].

(4) A fine collected pursuant to this section must be deposited to the state general fund.

NEW SECTION. **Section 5. {standard} Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 4].

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NEW SECTION. **Section 6. {standard} Effective date.** [This
act] is effective July 1, 2017.

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{Name : Sheri S. Scurr
Title : Research Analyst
Agency: Legislative Services Division
Phone : (406) 444-3596
E-Mail: sscurr@mt.gov}