



The Judiciary, State of Hawaii

Testimony to the Committee on Technology and the Arts

Senator Glenn Wakai, Chair

Senator Clarence K. Nishihara, Vice Chair

Tuesday, February 5, 2013, 1:15pm
State Capitol, Conference Room 414

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The Judiciary, State of Hawaii

Bill No. and Title: Senate Bill No. 729, Relating to the Internet Privacy

Purpose: Requires operators of commercial websites or online services that collect personally identifiable information through the Internet about consumers in the State who use the websites or online services to conspicuously post their privacy policies on their websites or through any other reasonably accessible means.

Judiciary's Position:

The Judiciary supports the intent of the bill to protect personal information, but wishes to point out that the definition of "personally identifiable information" is inconsistent with the definition used in other statutes. To the extent possible, it is helpful if a single definition is used so as to minimize confusion. Also, we would suggest that the bill does not address requirements for operators of mobile application and that inclusion should be considered.

"Personal Information" is defined in Hawaii Revised Statutes (HRS) §487N-1, and by reference in HRS §487J-1) as an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number; (2) Driver's license number or Hawaii identification card number; or (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial account.



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The definition provided in Senate Bill No. 729 is “individually identifiable information about an individual consumer collected online by the operator from that individual and maintained by the operator in an accessible form, including any of the following: (1) A first and last name; (2) A home or other physical address, including street name and name of a city or town; (3) An e-mail address; (4) A telephone number; (5) A social security number; (6) Any other identifier that permits the physical or online contacting of a specific individual; or (7) Information concerning a user that the website or online service collects online from the user and maintains in personally identifiable form in combination with an identifier described in this part.”

The Judiciary recommends, for purposes of clarity, that a single definition of “personally identifiable information” be used and that the definition be expanded possibly to include a person’s date of birth.

We further wish to point out that although this bill addresses “webpages,” mobile applications function in a similar manner to web pages in that operators of these applications also collect "personally identifiable information". The Judiciary recommends that the bill be expanded to require operators of mobile applications to provide a menu option to access the developer’s privacy policy. This would ensure that the bill’s intent (promoting privacy) would be optimally achieved.

Thank you for the opportunity to testify on Senate Bill No. 729.