

Amendment to HB 1236

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Expectation of Privacy. Amend RSA by inserting after chapter 507-G the
4 following new chapter:

5

CHAPTER 507-H

6

EXPECTATION OF PRIVACY

7 507-H:1 Definitions. In this chapter, "personal information" means an individual's name, date
8 or place of birth; social security number; address; employment history; credit history; financial and
9 other account numbers; cellular telephone numbers; voice over Internet protocol or landline
10 telephone numbers; location information; biometric identifiers including fingerprints, facial
11 photographs or images, retinal scans, genetic profiles, and DNA/RNA data; or other identifying data
12 unique to that individual.

13 507-H:2 Expectation of Privacy in Personal Information.

14 I. An individual shall have an expectation of privacy in personal information, including
15 content and usage, given or available to third-party providers of information and services, including
16 cellular and land-line telephone, electric, water, and other utility services; Internet service providers;
17 cable television providers; streaming services; social media providers; email service providers; banks
18 and financial institutions; insurance companies; and credit card companies.

19 II.(a) No municipal, county, state, or federal department, agency, employee, elected official,
20 or contractor shall acquire, collect, retain, or use the personal information described in paragraph I,
21 directly or indirectly, related to customers of third-party providers of information and services
22 located in New Hampshire except:

23 (1) Pursuant to a warrant signed by a judge and based on probable cause or
24 pursuant to a judicially-recognized exception to the warrant requirement.

25 (2) In the case of the division of emergency services and communications, when
26 handling emergency 911 telecommunications.

27 (3) Pursuant to a validly issued subpoena by an entity authorized by state law to
28 issue such subpoena.

29 (4) In an emergency.

30 (5) If the individual to whom the personal information pertains provides access to it
31 or authorizes access to it, but only for the purpose for which such access is granted.

1 (b) Subparagraph (a) shall not apply to personal information described in paragraph I if
2 authorized or required by a municipal, county, state, or federal department, agency, employee,
3 elected official, or contractor pursuant to state or federal law, provided that such information is
4 requested of and supplied by a third-party provider of information and services for named
5 individuals only or, in the case of employees and/or contractors of a third-party provider of
6 information and services, for all of its employees and/or contractors.

7 (c) Subparagraph (a) shall not apply to personal information described in paragraph I if
8 the individual to whom it pertains:

9 (1) Provides it to a municipal, county, state, or federal department, agency,
10 employee, elected official, or contractor, but only for the purpose for which it is provided, including
11 but not limited to credit card transactions and affinity programs; or

12 (2) Authorizes access to it by a municipal, county, state, or federal department,
13 agency, employee, elected official, or contractor, but only for the purpose for which such
14 authorization is granted.

15 III. No municipal, state, county, or federal department, agency, employee, elected official, or
16 contractor shall acquire, collect, or retain or use personal information to create dossiers, files, or
17 databases with respect to any individual unless the dossier, file, or database is authorized or
18 required by state or federal law.

19 IV. This chapter shall not apply to personal information acquired, collected, retained, or
20 used by any state regulatory agency with respect to a particular individual when such acquisition,
21 collection, retention, or use is within the agency's regulatory, investigative, adjudicatory, or
22 administrative function.

23 V. Any person violating the provisions of this section shall be guilty of a violation if a
24 natural person, or guilty of a misdemeanor if any other person.

25 VI. A person who suffers injury as a result of a violation of this chapter shall be entitled to
26 damages from the person who committed the violation of not less than \$1,000 for each such violation
27 and an award of costs and reasonable attorney fees.

28 507-H:3 Action Against a Corporation. This chapter shall not be construed to create a cause of
29 action against a corporation or its officers, employees, or agents for providing information to a
30 municipal, state, or federal department, agency, employee, or contractor in accordance with the
31 provisions of this chapter.

32 507-H-4 Federal Preemption. If federal law preempts any provision of this chapter, that
33 provision shall not apply.

34 2 Regulation of Biometric Information; Collection of Data Prohibited. Amend RSA 359-N:2, I(c)
35 to read as follows:

36 (c) Obtain, retain, or provide any individual's biometric data except as set forth in this
37 chapter *or in RSA 507-H*.

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1 2 Effective Date. This act shall take effect upon its passage.