



STATE PRIVACY AND SECURITY COALITION



April 10, 2017

TO: Members, Washington State House of Representatives

FR: Association of Washington Business, CompTIA, Consumer Data Industry Association, Data and Marketing Association, Internet Association, Northwest Grocery Association, Software & Information Industry Association, State Privacy and Security Coalition, TechNet, Washington Bankers Association, Washington Food Industry Association, Washington Retail Association, Washington Technology Industry Association

RE: FLOOR ALERT: HB 1904 (Smith) Taxing the Sale of Personal Information – OPPOSE

On behalf of the organizations listed above, which collectively represent the breadth of the technology sector, and those impacted both nationally and internationally, including high-tech manufacturing, computer networking and information technology, clean energy, life sciences, internet media, ecommerce, education, banks, retail and other data using businesses, we write in opposition to **House Bill 1904 (Smith)** and ask that you vote **"NO"** if the bill is taken up for a vote on the House Floor.

House Bill 1904 would directly and negatively impact existing Washington businesses. The 3.3% business and occupation tax (B&O) contemplated in HB 1904 would be a 601 percent B&O rate increase for businesses currently filing under the retailing category, a 582 percent increase for those filing under the wholesaling and manufacturing categories, and a 120 percent increase for those filing under service & other. The tax rate of

3.3% would be the highest gross receipts tax in the nation and due to the extremely broad definition of “personal information” would apply to more than 20,000 existing and 5,000 new taxpayers.

House Bill 1904 would be confusing, and as a result, extremely risky for businesses. The bedrock of Washington’s voluntary compliance tax system is a clear and understandable tax code. HB 1904 is neither clear nor understandable in that it defines the sale of personal information broadly, making it difficult for businesses to comply with. This lack of certainty greatly increases the risk of businesses getting an adverse audit through no fault of their own.

Companies have privacy policies where they tell consumers what personal information they collect and how it is used, shared or sold. Taxing compilations of data does not bring consumers additional control over their data nor specifically bring them the benefits of the proceeds the state seeks to take in through this bill.

The definition of “personal information” includes elements that could be associated with an individual, even when they aren’t in fact associated that way, and include routine information that is sent with every click on the internet. Additionally, “other location information” is very broad, and could even include a surmise that the user is in the United States generally.

Most data driven tools do not avail themselves of public services such as roads and bridges, the need for public safety officers, water or sewer services and the like. It does not make logical sense for online data users to have to pay inordinate amounts for services they do not use as do brick and mortar establishments.

Many aspects of today’s economy are dependent on the confidential, cost effective accessible sharing of information and data. Some industries are required by their regulators at both the state and federal levels to use personal information; this proposal would add significant cost to the use of those reports. Any attempt to tax data, sold or otherwise, would be a huge burden on retailers, wholesalers and vendors and would discourage continued improvements and efficiencies.

Over-regulation of data in the general, and specifically in the information economy, will stifle innovative, creativity and value-producing uses of data. This deprives consumers of helpful tools and applications that would be to their benefit.

Washington’s innovators will be put at a disadvantage vs. their counterparts in other states. In order to keep more of the proceeds, of the tools they create through use of data, they will simply move to other states. Washington will lose great talent and may lose standing as a technology and innovation hub in the United States.

This bill does what no other states have done or tried to do. It applies an extremely high gross receipts tax broadly across many industries impacting up to twenty-five thousand taxpayers. Please oppose HB 1904.

We respectfully ask for your “NO” vote on HB 1904.