

February 14, 2022

The Honorable Speaker of the House Laurie Jinkins  
Washington State House of Representatives  
339C Legislative Building  
PO Box 40600  
Olympia, WA 98504

The Honorable Minority Leader J.T. Wilcox  
Washington State House of Representatives  
335C Legislative Building  
PO Box 40600  
Olympia, WA 98504

RE: SHB 1850 – Data Privacy

Dear Speaker Jinkins, Minority Leader Wilcox, and Members of the House of Representatives,

We, the Tech Equity Coalition, alongside organizations representing diverse communities throughout Washington State, urge the Legislature to ensure that any data privacy bill that is advanced meaningfully protects people’s privacy and ensures that people have the power to control *if and how* their personal information is collected, used, and shared. Non-transparent, non-consensual, and unaccountable collection and use of our personal information has harmful consequences<sup>1</sup> for everyone, but particularly for the most marginalized communities. The Washington State Legislature should take meaningful action to protect Washingtonians.

SHB 1850 is still largely based on last year’s SB 5062 and inherits many of that bill’s problems. SHB 1850 does have some significant improvements over SB 5062. We appreciate that this bill includes a private right of action as well as a funded privacy commission, and we thank the sponsors for making very important changes to the definitions of “sharing” and “targeted advertising.”

However, SHB 1850, as written, still falls far short of the bar needed to provide meaningful privacy protections. SHB 1850 still:

- a. Does not require opt-in consent to collect, use, and share all data (Sec. 9);
- b. Allows companies to share consumers’ personal information with affiliated companies without a consumer’s knowledge or consent (Sec. 3(37));

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<sup>1</sup> <https://www.aclu-wa.org/docs/harms-data-abuse>

- c. Undermines consumers’ ability to access and obtain data that a controller may have obtained from a data broker or other sources due to the opt-out framework (Sec. 9);
- d. Allows for warrantless data sharing with law enforcement (Sec. 12(c));
- e. Preempts local jurisdictions from passing stronger privacy protections (Sec. 22);
- f. Limits the attorney general’s ability to enforce privacy violations with a “right to cure” provision (Sec. 19);
- g. Does not adequately protect children’s privacy (Sec. 3(21));
- h. Does not require consent to use people’s data for research (Sec. 12(h));
- i. Allows companies to avoid responsibility for sharing data with third parties (Sec. 12(4));
- j. Exempts nonprofits, institutions of higher ed, employment data, and personal data covered by some federal laws, even where not necessary (Sec. 4); and
- k. Contains a number of other loopholes in its definitions, qualifying language, and overbroad exemptions.<sup>2</sup>

We want to highlight that these issues are all in the text inherited from SB 5062. As has been reported, industry interests across the country have been pushing for the adoption of bills like SB 5062<sup>3</sup> that, by intentional design, do not give people meaningful privacy rights. “Big Tech Is Pushing States to Pass Privacy Laws, and Yes, You Should Be Suspicious” in *The Markup*<sup>4</sup> and “The Amazon lobbyists who kill U.S. consumer privacy protections,” in *Reuters*,<sup>5</sup> are two examples.

Should the Washington State Legislature attempt to pass a data privacy law this session, at a minimum, the following provisions,<sup>6</sup> must be included for such a law to truly protect Washingtonians.

1. Opt-in Consent
2. Protection of People, Not Just Consumers
3. Coverage of All Personal Information
4. Strong Non-Waivable Privacy Rights
5. Limitations on Use and Data Minimization
6. Limited Exemptions
7. Prohibition of Dark Patterns
8. No Economic Coercion

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<sup>2</sup> [ACLU-WA Feedback on HB 1850 | ACLU of Washington](#)

<sup>3</sup> <https://www.seattletimes.com/opinion/washington-needs-a-privacy-law-that-protects-people-not-corporations/>

<sup>4</sup> <https://themarkup.org/privacy/2021/04/15/big-tech-is-pushing-states-to-pass-privacy-laws-and-yes-you-should-be-suspicious>

<sup>5</sup> <https://www.reuters.com/investigates/special-report/amazon-privacy-lobbying/>

<sup>6</sup> Data privacy guiding principles described in greater detail alongside a bill comparison chart: <https://www.aclu-wa.org/docs/data-privacy-guiding-principles-and-bill-comparison-chart>

9. Civil Rights Protections
10. Restrictions on Sharing, Selling, and Disclosing Information
11. No Preemption of Stronger Privacy Laws
12. Strong Private Right of Action

We encourage this Committee to make changes to SHB 1850 to meet the minimum provisions for a strong data privacy bill. If these minimum provisions cannot be included, we urge you to oppose SHB 1850.

We urge you to pass strong data privacy legislation and make Washington a leader in championing meaningful data privacy protections.

Signed,

ACLU of Washington

CAIR Washington

Densho

Imagine No Kages

Indivisible Bainbridge Island

Indivisible Bellingham

Indivisible Eastside

Indivisible North Kitsap

Indivisible Olympia

Indivisible Plus Washington

Indivisible Skagit

Indivisible Snohomish County

Indivisible Tacoma

Indivisible Wallingford

Indivisible Washington's 8th District

Indivisible Whidbey

Japanese American Citizens League (JACL), Seattle Chapter

La Resistencia

MAPS-AMEN (American Muslim Empowerment Network)

Parent Coalition for Student Privacy

People First Bellingham

Poor People's Campaign

Washington Community Alliance

Washington for Black Lives  
WA People's Privacy Network  
Whatcom Peace & Justice Center