

NOTICE OF PROPOSED RULEMAKING

STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: Establishing rules from HB 2052, including a data brokers registry within DCBS

Public comment deadline: TBD

Effective Date: 1/1/2024

HEARING

Date: TBD
Time: TBD
Officer: Tewodros Badege, Policy Analyst

Location: Labor & Industries Building
350 Winter St. NE
Basement, Conf Rm E
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

NEED FOR RULEMAKING:

HB 2052 was introduced by Attorney General Ellen Rosenblum and was developed in consultation with the Attorney General's Consumer Privacy Task Force to address the dangers data brokers pose to Oregonians safety and privacy. HB 2052 defines a data broker as someone who collects, sells, or licenses brokered personal data to another person. HB 2052 requires a data brokers to register with the Department of Consumer and Business Services (DCBS) prior to collecting and selling or licensing brokered personal data to another person.

The purpose of this rulemaking is to prevent data brokers from collecting, selling, or licensing personal data of Oregonians without registration. Without a registration requirement for data brokers, data brokers will be able to continue collecting, selling and/or licensing the personal data of Oregonians. The absence of these rules leaves Oregonians without important information about what data brokers might have their data, and how they can opt-out of the sale or request deletion of their data.

[With this rulemaking, DCBS will provide consumers with a transparent, understandable and easy-to-use way to access information about data brokers operating in Oregon, and, will provide consumers with the information they need to opt-out of the collection and brokerage of their data.](#)

HB 2052 requires data brokers to register annually with DCBS. These rules will establish the first data broker registry for Oregon. HB 2052 does not require data brokers to obtain a license.

HB 2052 permits the director of DCBS to utilize the Nationwide Multistate Licensing System and Registry (NMLS) for registering data brokers. One purpose for this rulemaking is to implement and operate the alternative registration pathway because NMLS is unavailable for DCBS to utilize as a data broker registry. MyLicensing Office will be utilized as the registration pathway for this registry.

Non-Depository Programs (NDP) of DCBS will administer the registration and renewal process of this program, along with, maintaining the internal and external registries for this program and administering the fee collection associated with this program.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

House Bill 2052. Enrolled

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:

(Who is this going to impact and how might it impact one group of people differently than others?)

RAC #2 Input (9/19/2023):

There may be potential challenges for some older Oregonians in accessing the registry through computers and the use of this technology, as well as lower income Oregonians or rural/frontier Oregonians who may have less access to Internet services because of costs or broadband reliability or connectivity. Additional vulnerable populations without access to technology may be detrimentally impacted as well.

Data brokers often collect, sell and license sensitive information, including brokered personal data that reveals a person's racial or ethnic background, national origin, religious beliefs, mental or physical condition or diagnosis, sexual orientation, status as transgender or nonbinary, status as a victim of crime or citizenship or immigration status; data about children; and geolocation, genetic or biometric data. This practice raises heightened concerns for numerous groups of people, including BIPOC and LGBTQ individuals, as well as people with disabilities. Creating more transparency in this area and giving consumers more information about how they can control their data will help these Oregonians.

FISCAL AND ECONOMIC IMPACT:

Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).

RAC #2 Input (9/19/2023):

COST OF COMPLIANCE FOR SMALL BUSINESSES

(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.

RAC #2 Input (9/19/2023): The Department of Justice may receive consumer complaints related to data brokers' compliance with rules adopted pursuant to HB 2052. We do not anticipate a significant economic impact to our agency.

(2)(a) Estimate the number and type of small businesses subject to the rule(s).

RAC #2 Input (9/19/2023): We are not aware of any Oregon data brokers, and therefore do not anticipate an impact on local small businesses.

(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

RAC #2 Input (9/19/2023):

(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Expenditures for the program begin during the second quarter of FY 2024. Sourced from the fiscal impact statement provided by DFR, these expenditures include the hiring of two permanent staff, program start-up and maintenance costs, anticipated cost-of-living adjustments (6.5 percent, December 2023; 6.55 percent, January 2025), and the \$1,500 staff one-time payment in September 2023. These expenditures are broken out in the table below.

Planned Data Broker Expenditures

Period	Staff Costs	Standard S&S	Other S&S	Total
10/01/2023-12/31/2024	\$ 253,992.29	\$ 26,059.88	\$ 33,940.00	\$ 313,992.17
01/01/2025-12/31/2025	\$ 212,991.44	\$ 18,162.44	\$ 35,705.39	\$ 266,859.27

RAC #2 Input (9/19/2023):

How were small businesses involved in the development of the rule?

RAC #2 Input (9/19/2023):

Was an administrative rule advisory committee consulted? Yes.

RULE NUMBER AND SUMMARY

List each rule number and a short summary of what the rule does.

ADOPT: 441-830-0010

RULE SUMMARY:

ADOPT: 441-830-0020

RULE SUMMARY:

ADOPT: 441-830-0030

RULE SUMMARY:

ADOPT: 441-830-0040
RULE SUMMARY:

ADOPT: 441-830-0050
RULE SUMMARY:

ADOPT: 441-830-0060
RULE SUMMARY:

ADOPT: 441-830-0070
RULE SUMMARY:

ADOPT: 441-830-0080
RULE SUMMARY:

ADOPT: 441-830-0090
RULE SUMMARY:

ADOPT: 441-830-0100
RULE SUMMARY:

ADOPT: 441-830-0110
RULE SUMMARY:

RULE SUMMARY: STATUTORY REFERENCE

STATUTORY/OTHER AUTHORITY: ORS 59.285 & ORS 59.235

STATUTES/OTHER IMPLEMENTED: ORS 59.235, 59.135 & 59.205