



H. 121 Testimony

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Senate Committee on Economic Development, Housing and General Affairs

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- Common Good Vermont, a statewide program of United Way of Northwest Vermont, is a trusted resource and nonpartisan advocate for the State's more than 6300 nonprofit organizations. These organizations provide vital services, good jobs, and civic engagement opportunities that make our communities stronger, yet most are small to mid-sized with 70% of organizations generating less than \$100K per year in annual revenue.
- First, thank you to the committee for advancing work on this important issue. Common Good Vermont is generally supportive of this bill and values the necessary protections it provides to consumers. We do, however, have concerns about applying the same level of regulation across the board, as it holds nonprofits to the same standards as large corporations using data on a much greater scale in very different ways.
- Nonprofits understand the importance of protecting the data of their clients and supporters and should be considered partners in creating practical and responsible data privacy policies that serve both individual and societal interests.
 - Maintaining the trust of donors and the communities who nonprofits serve is critical to sustaining and advancing their missions. Breach of this trust could lead to irreputable damage to their reputation, not only hurting their ability to raise funds, but also their relationship with those they serve.
 - Organizations largely take appropriate steps to protect consumer data, relative to their size and mission. For example, an organization such as a mental health provider handling sensitive client information must have much more robust data protection policies and practices in place than a small arts organization.
 - Most organizations, regardless of size, depend on third-party services that are PCI compliant (that meet Payment Card Industry Data Security Standards) to accept donations and payments. They may also utilize Customer Relationship Management (CRM) software, databases, or third-party services to securely store, manage, process, and/or analyze collected personal data. Others may use third party apps that support clients and donors to engage with their organization or off them as a voluntary resource for individuals.
 - Large third-party corporations holding data entrusted to them by many organizations pose not only a greater risk to consumer data but are also greater targets for bad actors. Ensuring that these corporations are maintaining the highest level of data security is where we should be focusing regulatory measures.
 - Keeping privacy front of mind, organizations do rely on consumer information to inform their work. Whether it is analyzing aggregated, depersonalized data to assess need and impact or understanding the interests of their supporters to deliver communications to those who are most likely to benefit, this information helps organizations operate more efficiently and effectively.



- Some nonprofits also utilize consumer data to identify new donors. This information helps organizations, including those providing services on behalf of the state, fill growing funding gaps. While we agree that consumers should have the right to opt out of having their information sold by data brokers, there is concern that a general opt-out could impact nonprofits' ability to raise funds during an already challenging economic time.
- In considering consumer privacy protections, we must weigh the tradeoffs between individual and societal interests.
 - Nonprofits collect and utilize data for the common good, rather than for profit.
 - Should a small nonprofit with a strong base of supporters be held to the same standards as a giant tech corporation?
 - Nonprofits are already operating at capacity with limited resources. While they may utilize consumer data, they are not doing so anywhere near the scale or level of large corporations. Holding nonprofits, and small businesses for that matter, to the same standard without the benefit means that they bear a disproportionate burden which fails to level the playing field.
- Considerations and Recommendations
 - **Capacity and Cost:** Nonprofits will need to make significant updates to their existing data policies, data management practices, and even technology. This takes time and resources away from the mission work of organizations with tight budgets and already tapped capacity. The required investments will disproportionately impact nonprofits compared to a large corporation.
 - One example is in Colorado, which did NOT include a nonprofit exemption, there have been organizations that have had to spend up to \$40,000 on consultants to help them comply with new regulations.
 - **Education & Outreach:** We recommend stakeholder participation/consultation, including Common Good Vermont or another representative from the nonprofit sector, in the development of guidance for and outreach to controllers and processors.
 - **Third-Party Registry:** To support nonprofits and others in choosing third party services that are compliant and demonstrate strong data protection practices, it would be helpful to have a verified list/registry of vetted companies. Those who register would be rewarded for taking the extra step by gaining additional business.
 - **Private Right of Action:** We support the intention of this clause and appreciate the inclusion of a cure period, but are concerned that even with a cure period, the time and resources required to respond to potentially unfounded claims could be overly onerous. If private action first went through a third party such as the Consumer Assistance Program or an oversight board, this would mitigate our concerns and save consumers from pursuing costly litigation that may or may not make them whole.
 - **Effective Date:** We appreciate that the House pushed the effective date out to July 1, 2025, but as Oregon did, we would recommend extending the date by an additional year for nonprofits.
 - **Applicability Threshold:** While our preference would be for a sector-wide exemption for nonprofits, if this is not possible, we urge the committee to increase the applicability threshold substantially to reflect the size of the corporation rather than the size of the State population.
 - Most states, regardless of size, have applied a consumer threshold of 100,000.



- The current threshold of 6,500 consumers represents just 1% of Vermont's population. This is the lowest population percentage for all states except California, though their threshold is set at the standard 100,000. We would recommend a minimum applicability threshold of 50,000 consumers.
- Alternatively, we would recommend applying a monetary threshold for organizations of no less than \$600K in revenue (though \$1M would be our preference).
- Thank you for the opportunity to weigh in on this bill and I'm happy to answer any questions.