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H.402

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Introduced by Representative Browning of Arlington

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Referred to Committee on

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Date:

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Subject: Utilities; electric; smart meters; privacy; liability; notice

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Statement of purpose of bill as introduced: This bill proposes to establish new

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requirements and standards related to the use of smart meters.

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An act relating to the use of smart meters

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It is hereby enacted by the General Assembly of the State of Vermont:

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Sec. 1. 30 V.S.A. § 2811a is added to read:

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§ 2811a. SMART METERS; PRIVACY

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(a) As used in this section:

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(1) "Customer data" means information about electrical usage data made

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available to and collected by an electric company through use of a smart meter

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installed on the customer's premises and includes personal information such as

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the customer's name, account number, and address.

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(2) "Smart meter" shall have the same meaning as in subdivision

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2811(a)(1) of this chapter.

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(b) An electric company, and its authorized subcontractors, shall treat

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customer data as confidential to the extent permitted by state and federal law

1 and, in the case of a municipal electric company, customer data shall be
2 exempt from inspection and copying under the Public Records Act.

3 (c) An electric company shall not disclose customer data unless required to
4 do so by a warrant naming with specificity the customer whose information is
5 sought and issued pursuant to Vermont Rule of Criminal Procedure 41 or
6 Federal Rule of Criminal Procedure 41 upon a finding of probable cause. An
7 electric company shall not provide real-time access to information unless
8 pursuant to a judicial order issued under 18 U.S.C. § 2516. A person or entity
9 seeking customer data may request such information directly from the
10 customer under any applicable legal procedure or authority, such as a
11 subpoena. An electric company, in response to a subpoena, may disclose a
12 customer's name, address, and contact information.

13 (d) An electric company shall create, maintain, and appropriately update
14 measures to protect customer data from inadvertent disclosure to or
15 accessibility by unauthorized third parties.

16 (e) An electric company shall adopt a privacy policy consistent with this
17 section which shall be prominently displayed, made available to customers,
18 and presented to third-party vendors when appropriate to ensure protection of
19 customer data. In the case of a municipal electric company, such policy shall
20 not be deemed to supersede or override state or federal public records law.

1 (f) Any aggregation of customer data by an electric company for any
2 purpose shall be done in such a way as to ensure that individual customers
3 cannot be identified from that data.

4 (g) An electric company shall adhere to any confidentiality agreements
5 governing the provision of customer data to any entity appointed as an energy
6 efficiency utility under 30 V.S.A. § 209(d)(2).

7 (h) An electric company shall have sufficient controls in place to ensure
8 that customer data is maintained securely within infrastructure owned or
9 controlled by the company.

10 (i) Any interactive connections with a customer shall require a secure
11 method of user authentication on the part of the customer.

12 (j) Customer data shall not be sold, given, or in any fashion conveyed to
13 third persons for any commercial purpose without the express written consent
14 of the customer, except to the extent, if any, that such disclosure may be
15 required by law.

16 (k) Nothing in this section or in any privacy policy adopted by an electric
17 company shall restrict a customer from choosing to provide information or
18 access to customer data directly to a third-party company, through software
19 applications, devices, or otherwise.

1 Sec. 2. 30 V.S.A. § 2811b is added to read:

2 § 2811b. DYNAMIC PRICING SYSTEMS; NOTICE; WRITTEN

3 CONSENT

4 Prior to connecting any device to a wired or wireless smart meter for the
5 purpose of allowing a customer to avail him- or herself of a dynamic pricing
6 scheme, as authorized under section 218(b)(2), the electric company shall
7 obtain the customer's written consent on a form developed by the
8 Commissioner of Public Service. The form shall clearly and prominently
9 inform the customer that the electric company cannot ensure there are no
10 privacy, security, or health risks associated with the use of a dynamic pricing
11 system and that such risks may include identity theft, alteration of account
12 information, and manipulation of appliances by unauthorized persons.

13 Sec. 3. 30 V.S.A. § 2811c is added to read:

14 § 2811c. SMART METERS; PRIVATE RIGHT OF ACTION

15 (a) Any person injured or damaged by a smart meter installed or used
16 pursuant to § 2811 of this chapter or by a public health hazard related to such
17 meter may bring an action for equitable relief or damages arising from such
18 installation, use, or public hazard.

19 (b) The remedies provided by this section are in addition to any statutory or
20 common law remedies otherwise available and do not amend or conflict with

1 the authority or powers of the Public Service Board or the Commissioner of
2 Health to issue a health, emergency, or other order.

3 (c) The limitations and defenses of 12 V.S.A. chapter 189 and the
4 provisions of 29 V.S.A. chapter 55 shall apply to actions against the State of
5 Vermont and its political subdivisions under this section.

6 (d) Notwithstanding any provision of this section to the contrary or the
7 existence of any other remedy existing at law or in equity, no cause of action
8 or grounds for enforcement shall lie against any municipality, as defined in
9 24 V.S.A. § 1481, for any defect, hazard, liability, use, condition, or violation
10 which exists on the date such municipality acquires a smart meter, unless the
11 acquiring municipality expressly assumes the same. The provisions of this
12 subsection shall not be construed to relieve such municipality from any
13 obligation or responsibility to correct or abate any violation of this title or of
14 Title 18 on and after the date of such acquisition. This subsection shall be
15 strictly construed to hold municipalities and electric companies liable for
16 damages or hazards relating to smart meters they acquired or installed.

17 (e) Any claimant who prevails in a civil action under subsection (a) of this
18 section shall be entitled to costs, interest from the date of filing the claim, and
19 reasonable attorney's fees.

1 Sec. 4. APPLICATION

2 Notwithstanding any law, order, or agreement to the contrary, the
3 provisions of this act shall apply to all wired and wireless smart meters
4 installed before or after the effective date of this act.

5 Sec. 5. EFFECTIVE DATE

6 This act shall take effect on passage.