



Testimony of VPIRG Consumer Protection Advocate Zachary Tomanelli on S.71 - An act relating to consumer data privacy and online surveillance

Testimony before the House Committee on Commerce and Economic Development
May 1, 2026

Introduction

Good afternoon. My name is Zachary Tomanelli and I am the consumer protection advocate for VPIRG, the Vermont Public Interest Research Group. For over 50 years, VPIRG has advocated for the public interest in policy debates concerning the environment, health care, consumer protection, and democracy, and so I thank you for this opportunity to share our thoughts on S.71.

Overview

I want to start by thanking the committee for all your work this year, and frankly over the years, on the consumer data privacy issue. VPIRG supports the comprehensive consumer privacy reforms contained in S.71 draft 2.3.

Vermont has taken great strides to better protect consumers' sensitive information in recent years through the enactment of our data broker registry law and student online privacy law, among others, but we've stopped short of enacting more comprehensive data privacy legislation that VPIRG thinks is necessary for giving Vermont consumers the broadest protections possible.

Twenty other states have enacted some kind of comprehensive data privacy legislation in recent years. Those laws are not identical, and some are considerably more protective of consumers than others. Nevertheless, the movement on data privacy reforms in this diverse collection of states demonstrates that this isn't a partisan issue—the idea that consumers should have a reasonable amount of control over their own information transcends party lines.

This legislation is essential for our state to keep up with the rapidly changing data landscape, and provide Vermonters with critical, commonsense data protections.

Why this bill is necessary

VPIRG's support for this legislation is grounded in three essential principles:

- **Consumer privacy is a fundamental right.** We believe that consumers should be able to conduct transactions with data collectors under the assumption that any information the consumer provides as a part of that transaction will not be used or shared for purposes inconsistent with the completion of that transaction. This used to be the baseline assumption between consumers

and data collectors – but the digitization and, importantly, monetization of data has upended this.

- **The proliferation of consumer data can have real tangible harms.** This isn't just about privacy for privacy's sake. The more that data is shared, spread, packaged, sold and analyzed – the greater the risk becomes for that data to be misused or fall into the hands of malicious actors, exposing consumers to scams, identity theft, unwanted tracking, and discrimination.
- **Our current protections leave significant gaps.** There isn't a comprehensive federal privacy law in the United States. The U.S. takes a sectoral approach to data privacy – which can make it difficult and confusing for consumers to exercise their privacy rights, as they often don't know what information is actually protected or which data collectors are covered by existing data privacy laws. Companies like data brokers, social media platforms, and most websites and apps have no legal requirement to keep consumer data private and secure.

It's VPIRG's position that we should enact policies that treat consumer data privacy as a default and, as much as possible, remove the onus from Vermonters themselves to exercise their privacy rights and place the responsibility on would-be data collectors to respect Vermonters' data privacy. This legislation achieves that in a variety of ways – and I think it would be most helpful for me to highlight the two key ways S.71 draft 2.3 better protects consumers than most of the state privacy laws enacted to date.

Important pro-consumer protection points in S.71 draft 2.3

- **Meaningful data minimization standard:** This is the commonsense principle that companies only collect and use the data that is reasonably necessary for delivering the service a consumer is expecting to get, and nothing more — no secretive data harvesting, and no selling our information to unrelated third parties. Contrast this with so-called data minimization standards in other state privacy laws that allow companies to continue collecting whatever data they want and doing whatever they like with it, as long as they disclose it somewhere in the fine print of a privacy policy. This is arguably worse for consumers than even an opt-in/opt-out type model as it basically allows all current data practices to go unchanged while incentivizing companies to make their privacy disclosures more cumbersome so as to dissuade consumers from understanding how their data is actually being used. Thankfully, S.71 draft 2.3 contains a meaningful data minimization standard that is more in line with (and arguably improves upon and provides more clarity than) the standard that Maryland has enacted.
- **Ban on the sale of sensitive data:** Some information is far too sensitive to risk it falling into the hands of others. No app should be allowed to sell our location data, no doctor's check-in software allowed to sell our appointment information, and no student learning platform allowed to sell our children's data. All sales of these types of data must be against the law.

A note on enforcement

We've seen time and again that privacy laws require robust enforcement to be maximally effective. A private right of action would be the best way to ensure robust enforcement of the law. We know that the resources of the Attorney General's office are not limitless. They may only be able to bring action for

a handful of violations over the course of a year. Private rights of action ensure compliance and provide consumers recourse when their privacy rights have been violated. A private right of action is included in Vermont's underlying Consumer Protection Act and, as such, has been a feature of several consumer protection laws enacted by this legislature over the years (including but not limited to: the aforementioned student data privacy law, Vermont's automatic consumer contract renewal law, Vermont's law reining in the practices of the Rent-to-Own industry, and the recently enacted age-appropriate design code) with almost no controversy.

Nevertheless, we understand the political challenges with maintaining that underlying consumer right in this legislation and the legislature's decision to take away that right and grant sole enforcement authority to the Attorney General. It would be our contention, however, that doing so only underscores the need for strong substantive protections in the bill. Removing the possibility of private action ostensibly gives data collectors greater latitude to achieve compliance with the strong standards contained in this bill and the ability to do so in a cooperative environment with regulators.

Conclusion

In summary, VPIRG greatly appreciates the Committee's time and attention to this matter, and we strongly support S.71 draft 2.3. We urge you to advance this bill. Thank you for the opportunity to present this testimony.