

1 TO THE HONORABLE SENATE:

2 The Committee on Institutions to which was referred Senate Bill No. 69
3 entitled “An act relating to relating to an age-appropriate design code”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended as follows:

6 First: In Sec. 1, 9 V.S.A. chapter 62, subchapter 6, in section 2449a, by
7 striking out subdivision (5) in its entirety and inserting in lieu thereof a new
8 subdivision (5) to read as follows:

9 (5) “Business associate” has the same meaning as in the Health
10 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191
11 (HIPAA).

12 Second: In Sec. 1, 9 V.S.A. chapter 62, subchapter 6, in section 2449a, by
13 striking out subdivision (11) in its entirety and inserting in lieu thereof a new
14 subdivision (11) to read as follows:

15 (11) “Covered business” means a sole proprietorship, partnership,
16 limited liability company, corporation, association, other legal entity, or an
17 affiliate thereof:

18 (A) that conducts business in this State;

19 (B) that generates a majority of its annual revenue from online
20 services;

1 (C) whose online products, services, or features are reasonably likely
2 to be accessed by a minor;

3 (D) that collects consumers’ personal data or has consumers’
4 personal data collected on its behalf by a processor; and

5 (E) that alone or jointly with others determines the purposes and
6 means of the processing of consumers personal data.

7 Third: In Sec. 1, 9 V.S.A. chapter 62, subchapter 6, by striking out section
8 2449b in its entirety and inserting in lieu thereof a new section 2449b to read
9 as follows:

10 § 2449b. EXCLUSIONS

11 This subchapter does not apply to:

12 (1) a federal, state, tribal, or local government entity in the ordinary
13 course of its operation;

14 (2) protected health information that a covered entity or business
15 associate processes in accordance with, or documents that a covered entity or
16 business associate creates for the purpose of complying with, HIPAA;

17 (3) information used only for public health activities and purposes
18 described in 45 C.F.R. § 164.512;

19 (4) information that identifies a consumer in connection with:

20 (A) activities that are subject to the Federal Policy for the Protection
21 of Human Subjects as set forth in 45 C.F.R. Part 46;

1 (B) research on human subjects undertaken in accordance with good
2 clinical practice guidelines issued by the International Council for
3 Harmonisation of Technical Requirements for Pharmaceuticals for Human
4 Use;

5 (C) activities that are subject to the protections provided in 21 C.F.R.
6 Part 50 and 21 C.F.R. Part 56; or

7 (D) research conducted in accordance with the requirements set forth
8 in subdivisions (A)–(C) of this subdivision (4) or otherwise in accordance with
9 State or federal law;

10 (5) an entity whose primary purpose is journalism as defined in
11 12 V.S.A. § 1615(a)(2) and that has a majority of its workforce consisting of
12 individuals engaging in journalism;

13 (6) a person who controlled or processed the personal data of not more
14 than:

15 (A) 25,000 consumers in the previous calendar year, excluding
16 personal data controlled or processed solely for the purpose of completing a
17 payment transaction; or

18 (B) 50,000 consumers in the previous calendar year, excluding
19 personal data controlled or processed solely for the purpose of completing a

1 payment transaction and had an annual gross revenue of not more than
2 \$1,000,000.00 in the previous calendar year; and
3 (7) a financial institution or data subject to Title V of the Gramm-Leach-
4 Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that
5 act.

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8 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE