



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

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Testimony before the Senate Committee on Institutions  
March 12, 2025

## 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 working on this important issue and note that VPIRG is strongly supportive of the comprehensive consumer privacy reforms contained in S.71.

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.

Nineteen 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 key ways S.71 better protects consumers than most of the state privacy laws enacted to date.

#### **Important pro-consumer protection points in S.71**

- **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 contains a meaningful data minimization standard that is more in line with 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.
- **Strong enforcement via a narrow private right of action for violations:** We've seen time and again that privacy laws require robust enforcement to be maximally effective. The inclusion of a private right of action ensures 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. It's notable that the drafters of S.71 clearly sought to be responsive to concerns that have been raised about the

private right of action and have very narrowly tailored this right so as to only be applicable to data brokers and large data holders *and* only for violations of the sensitive data portions of the bill *and* only after the Attorney General's office has reviewed the claim. It's also worth noting that 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, and Vermont's law reining in the practices of the Rent-to-Own industry) with almost no controversy.

### **Conclusion**

In summary, VPIRG greatly appreciates the Committee's time and attention to this matter, and we strongly support S.71 as a truly consumer protective data privacy model. We urge you to advance this bill. Thank you for the opportunity to present this testimony.