

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Commerce Committee  
2 Representative McFarland offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (g) of subsection (1) of section  
7 501.171, Florida Statutes, is amended to read:

8 501.171 Security of confidential personal information.—

9 (1) DEFINITIONS.—As used in this section, the term:

10 (g)1. "Personal information" means either of the  
11 following:

12 a. An individual's first name or first initial and last  
13 name in combination with any one or more of the following data  
14 elements for that individual:

15 (I) A social security number;

Amendment No. 1

16 (II) A driver license or identification card number,  
17 passport number, military identification number, or other  
18 similar number issued on a government document used to verify  
19 identity;

20 (III) A financial account number or credit or debit card  
21 number, in combination with any required security code, access  
22 code, or password that is necessary to permit access to an  
23 individual's financial account;

24 (IV) Any information regarding an individual's medical  
25 history, mental or physical condition, or medical treatment or  
26 diagnosis by a health care professional; or

27 (V) An individual's health insurance policy number or  
28 subscriber identification number and any unique identifier used  
29 by a health insurer to identify the individual.

30 b. A user name or e-mail address, in combination with a  
31 password or security question and answer that would permit  
32 access to an online account.

33 c. An individual's biometric information as defined in s.  
34 501.173(1).

35 2. The term does not include information about an  
36 individual that has been made publicly available by a federal,  
37 state, or local governmental entity. The term also does not  
38 include information that is encrypted, secured, or modified by  
39 any other method or technology that removes elements that

Amendment No. 1

40 personally identify an individual or that otherwise renders the  
41 information unusable.

42 Section 2. Section 501.173, Florida Statutes, is created  
43 to read:

44 501.173 Consumer data privacy.-

45 (1) DEFINITIONS.-As used in this section, the term:

46 (a) "Aggregate consumer information" means information  
47 that relates to a group or category of consumers, from which the  
48 identity of an individual consumer has been removed and is not  
49 reasonably capable of being directly or indirectly associated or  
50 linked with, any consumer, household, or device. The term does  
51 not include personal information that has been deidentified.

52 (b) "Biometric information" means an individual's  
53 physiological, biological, or behavioral characteristics,  
54 including an individual's deoxyribonucleic acid (DNA), that can  
55 be used, singly or in combination with each other or with other  
56 identifying data, to establish individual identity. The term  
57 includes, but is not limited to, imagery of the iris, retina,  
58 fingerprint, face, hand, palm, vein patterns, and voice  
59 recordings, from which an identifier template, such as a  
60 faceprint, a minutiae template, or a voiceprint, can be  
61 extracted, and keystroke patterns or rhythms, gait patterns or  
62 rhythms, and sleep, health, or exercise data that contain  
63 identifying information.

Amendment No. 1

64 (c) "Collect" means to buy, rent, gather, obtain, receive,  
65 or access any personal information pertaining to a consumer by  
66 any means. The term includes, but is not limited to, actively or  
67 passively receiving information from the consumer or by  
68 observing the consumer's behavior.

69 (d) "Consumer" means a natural person who resides in or is  
70 domiciled in this state, however identified, including by any  
71 unique identifier, who is acting in a personal capacity or  
72 household context. The term does not include a natural person  
73 acting on behalf of a legal entity in a commercial or employment  
74 context.

75 (e) "Controller" means:

76 1. A sole proprietorship, partnership, limited liability  
77 company, corporation, association, or legal entity that meets  
78 the following requirements:

79 a. Is organized or operated for the profit or financial  
80 benefit of its shareholders or owners;

81 b. Does business in this state;

82 c. Collects personal information about consumers, or is  
83 the entity on behalf of which such information is collected;

84 d. Determines the purposes and means of processing  
85 personal information about consumers alone or jointly with  
86 others; and

87 e. Satisfies at least two of the following thresholds:

Amendment No. 1

88 (I) Has global annual gross revenues in excess of \$50  
89 million, as adjusted in January of every odd-numbered year to  
90 reflect any increase in the Consumer Price Index.

91 (II) Annually buys, receives, sells, or shares the  
92 personal information of 50,000 or more consumers, households, or  
93 devices for targeted advertising in conjunction with third  
94 parties or that is not covered by an exception under this  
95 section.

96 (III) Derives 50 percent or more of its global annual  
97 revenues from selling or sharing personal information about  
98 consumers.

99 2. Any entity that controls or is controlled by a  
100 controller. As used in this subparagraph, the term "control"  
101 means:

102 a. Ownership of, or the power to vote, more than 50  
103 percent of the outstanding shares of any class of voting  
104 security of a controller;

105 b. Control in any manner over the election of a majority  
106 of the directors, or of individuals exercising similar  
107 functions; or

108 c. The power to exercise a controlling influence over the  
109 management of a company.

110 (f) "Deidentified" means information that cannot  
111 reasonably be used to infer information about, or otherwise be

Amendment No. 1

112 linked to, a particular consumer, provided that the controller  
113 that possesses the information:

114 1. Takes reasonable measures to ensure that the  
115 information cannot be associated with a specific consumer;

116 2. Publicly commits to maintain and use the information in  
117 deidentified form and not to attempt to reidentify the  
118 information, except that the business may attempt to reidentify  
119 the information solely for the purpose of determining whether  
120 its deidentification processes satisfy the requirements of this  
121 paragraph; and

122 3. Contractually obligates any recipients of the  
123 information to comply with all the provisions of this paragraph  
124 to avoid reidentifying such information.

125 4. Implements business processes to prevent inadvertent  
126 release of deidentified information.

127 (g) "Department" means the Department of Legal Affairs.

128 (h) "Device" means a physical object associated with a  
129 consumer or household capable of directly or indirectly  
130 connecting to the Internet.

131 (i) "Homepage" means the introductory page of an Internet  
132 website and any Internet webpage where personal information is  
133 collected. In the case of a mobile application, the homepage is  
134 the application's platform page or download page, a link within  
135 the application, such as the "About" or "Information"  
136 application configurations, or settings page, and any other

044395 - h969-strike.docx

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Amendment No. 1

137 location that allows consumers to review the notice required by  
138 subsection (7), including, but not limited to, before  
139 downloading the application.

140 (j) "Household" means a natural person or a group of  
141 people in this state who reside at the same address, share a  
142 common device or the same service provided by a controller, and  
143 are identified by a controller as sharing the same group account  
144 or unique identifier.

145 (k) "Person" means an individual, proprietorship, firm,  
146 partnership, joint venture, syndicate, business trust, company,  
147 corporation, limited liability company, association, committee,  
148 legal entity, and any other organization or group of persons  
149 acting in concert.

150 (l) "Personal information" means information that  
151 identifies, relates to, or describes a consumer or household, or  
152 is reasonably capable of being directly or indirectly associated  
153 or linked with, a consumer or household.

154 1. The term includes, but is not limited to, the  
155 following:

156 a. Identifiers such as a real name, alias, postal address,  
157 unique identifier, online identifier, internet protocol address,  
158 email address, account name, social security number, driver  
159 license number, passport number, or other similar identifiers.

160 b. Information that identifies, relates to, or describes,  
161 or could be associated with, a particular individual, including,

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

162 but not limited to, a name, signature, social security number,  
163 physical characteristics or description, address, telephone  
164 number, passport number, driver license or state identification  
165 card number, insurance policy number, education, employment,  
166 employment history, bank account number, credit card number,  
167 debit card number, or any other financial information, medical  
168 information, or health insurance information.

169 c. Characteristics of protected classifications under  
170 state or federal law.

171 d. Commercial information, including records of personal  
172 property, products or services purchased, obtained, or  
173 considered, or other purchasing or consuming histories or  
174 tendencies.

175 e. Biometric information.

176 f. Internet or other electronic network activity  
177 information, including, but not limited to, browsing history,  
178 search history, and information regarding a consumer's  
179 interaction with an Internet website, application, or  
180 advertisement.

181 g. Geolocation data.

182 h. Audio, electronic, visual, thermal, olfactory, or  
183 similar information.

184 i. Inferences drawn from any of the information identified  
185 in this paragraph to create a profile about a consumer  
186 reflecting the consumer's preferences, characteristics,

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM



Amendment No. 1

187 psychological trends, predispositions, behavior, attitudes,  
188 intelligence, abilities, and aptitudes.

189 2. The term does not include consumer information that is:

190 a. Consumer employment contact information, which includes  
191 a position name or title, employment qualifications, emergency  
192 contact information, business telephone number, business  
193 address, business electronic mail address, business facsimile  
194 number, employee benefit information, and similar information  
195 used solely in an employment context.

196 b. Deidentified or aggregate consumer information.

197 c. Publicly and lawfully available information reasonably  
198 believed to be made available to the public in a lawful manner  
199 and without legal restrictions:

200 (I) From federal, state, or local government records.

201 (II) By a widely distributed media source.

202 (III) By the consumer or by someone to whom the consumer  
203 disclosed the information unless the consumer has purposely and  
204 effectively restricted the information to a certain audience on  
205 a private account.

206  
207 Subparagraph c. does not include biometric information collected  
208 by a controller about a consumer without the consumer's consent.

209 (m) "Probabilistic identifier" means the identification of  
210 a consumer or a device to a degree of certainty of more probable  
211 than not based on any categories of personal information

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

212 included in, or similar to, the categories listed under  
213 paragraph (l).

214 (n) "Processing" means any operation or set of operations  
215 that are performed on personal information or on sets of  
216 personal information, whether or not by automated means.

217 (o) "Processor" means a sole proprietorship, partnership,  
218 limited liability company, corporation, association, or other  
219 legal entity that is organized or operated for the profit or  
220 financial benefit of its shareholders or other owners, that  
221 processes information on behalf of a controller and to which the  
222 controller discloses a consumer's personal information pursuant  
223 to a written contract, provided that the contract prohibits the  
224 entity receiving the information from retaining, using, or  
225 disclosing the personal information for any purpose other than  
226 for the specific purpose of performing the services specified in  
227 the contract for the controller, or as otherwise permitted by  
228 this section.

229 (p) "Pseudonymize" means the processing of personal  
230 information in a manner that renders the personal information no  
231 longer attributable to a specific consumer without the use of  
232 additional information, provided that the additional information  
233 is kept separately and is subject to technical and  
234 organizational measures to ensure that the personal information  
235 is not attributed to an identified or identifiable consumer.

Amendment No. 1

236 (g) "Research" means scientific, systematic study and  
237 observation, including, but not limited to, basic research or  
238 applied research that is in the public interest and that adheres  
239 to all other applicable ethics and privacy laws or studies  
240 conducted in the public interest in the area of public health.

241 Research with personal information that may have been collected  
242 from a consumer in the course of the consumer's interactions  
243 with a controller's service or device for other purposes must  
244 be:

245 1. Subsequently pseudonymized and deidentified, or  
246 deidentified and in the aggregate, such that the information  
247 does not reasonably identify, relate to, or describe, or is not  
248 capable of being directly or indirectly associated or linked  
249 with, a particular consumer.

250 2. Made subject to technical safeguards that prohibit  
251 reidentification of the consumer to whom the information may  
252 pertain.

253 3. Subject to business processes that specifically  
254 prohibit reidentification of the information.

255 4. Made subject to business processes to prevent  
256 inadvertent release of deidentified information.

257 5. Protected from any reidentification attempts.

258 6. Used solely for research purposes that are compatible  
259 with the context in which the personal information was collected  
260 and not used for any commercial purpose.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

261 7. Subjected by the controller conducting the research to  
262 additional security controls that limit access to the research  
263 data to only those individuals necessary to carry out the  
264 research purpose.

265 (r) "Sell" means to sell, rent, release, disclose,  
266 disseminate, make available, transfer, or otherwise communicate  
267 orally, in writing, or by electronic or other means, a  
268 consumer's personal information by a controller to another  
269 controller or a third party for monetary or other valuable  
270 consideration.

271 (s) "Share" means to share, rent, release, disclose,  
272 disseminate, make available, transfer, or access a consumer's  
273 personal information for advertising or marketing. The term  
274 includes:

275 1. Allowing a third party to use or advertise or market to  
276 a consumer based on a consumer's personal information without  
277 disclosure of the personal information to the third party.

278 2. Monetary transactions, nonmonetary transactions, and  
279 transactions for other valuable consideration between a  
280 controller and a third party for advertising or marketing for  
281 the benefit of a controller.

282 (t) "Targeted advertising" means marketing to a consumer  
283 or displaying an advertisement to a consumer when the  
284 advertisement is selected based on personal information used to  
285 predict such consumer's preferences or interests.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

286 (u) "Third party" means a person who is not a controller  
287 or processor.

288 (v) "Unique identifier" means a persistent identifier that  
289 can be used to recognize a consumer, a family, or a device that  
290 is linked to a consumer or family, over time and across  
291 different services, including, but not limited to, a device  
292 identifier; an Internet Protocol address; cookies, beacons,  
293 pixel tags, mobile ad identifiers, or similar technology;  
294 customer number, unique pseudonym, or user alias; telephone  
295 numbers, or other forms of persistent or probabilistic  
296 identifiers that can be used to identify a particular consumer,  
297 family, or device that is linked to a consumer or family. As  
298 used in this paragraph, the term "family" means a custodial  
299 parent or guardian and any minor children of whom the parent or  
300 guardian has custody, or a household.

301 (w) "Verifiable consumer request" means a request that is  
302 made by a consumer, by a parent or guardian on behalf of a  
303 consumer that is a minor child, or by a natural person or a  
304 person authorized by the consumer to act on the consumer's  
305 behalf, that the controller can reasonably verify pursuant to  
306 rules adopted by the department to be the consumer entitled to  
307 exercise certain rights with respect to personal information  
308 collected by the controller. A controller is not obligated to  
309 provide information to the consumer if the consumer or a person  
310 authorized to act on the consumer's behalf does not provide

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

311 verification of identity or verification of authorization to act  
312 with the permission of the consumer. A verifiable consumer  
313 request is made when requested through an established account  
314 using the controller's established security features to access  
315 the account through communication features offered to consumers.

316 (2) EXCEPTIONS.—

317 (a) This section does not restrict the ability of any  
318 controller, processor, or third party to do any of the  
319 following:

320 1. Collect and transmit personal information that is  
321 necessary for the sole purpose of sharing such personal  
322 information with a financial service provider to facilitate  
323 short term, transactional payment processing for the purchase of  
324 products or services.

325 2. Comply with federal, state, or local laws.

326 3. Comply with a civil, criminal, or regulatory inquiry,  
327 investigation, subpoena, or summons by federal, state, or local  
328 authorities.

329 4. Cooperate with law enforcement agencies concerning  
330 conduct or activity that the controller, processor, or third  
331 party reasonably and in good faith believes may violate federal,  
332 state, or local law.

333 5. Exercise legal rights or privileges.

Amendment No. 1

334 6. Collect, use, retain, sell, share, or disclose  
335 deidentified personal information or aggregate consumer  
336 information.

337 (b) This section does not apply to:

338 1. Personal information used or collected by a controller  
339 or processor pursuant to a written contract between the  
340 controller and processor that complies with the requirements of  
341 this section. Such information cannot be sold, shared, or  
342 disclosed to another person unless otherwise permitted under  
343 this section.

344 2. Personal information used by a controller or processor  
345 to advertise or market products or services that are produced or  
346 offered directly by the controller or processor. Such  
347 information may not be sold, shared, or disclosed to another  
348 person unless otherwise permitted under this section.

349 3. Personal information collected by a controller of a  
350 natural person acting in the role of a job applicant, employee,  
351 owner, director, officer, contractor, volunteer, or intern of  
352 the controller, to the extent the personal information is  
353 collected and used solely within the context of the person's  
354 role or former role with the controller. For purposes of this  
355 subparagraph, personal information includes employee benefit  
356 information.

357 4. Protected health information for purposes of the  
358 federal Health Insurance Portability and Accountability Act of

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

359 1996 and related regulations, and patient identifying  
360 information for purposes of 42 C.F.R. Part 2, established  
361 pursuant to 42 U.S.C. s. 290dd-2.

362 5. A covered entity or business associate governed by the  
363 privacy, security, and breach notification rules issued by the  
364 United States Department of Health and Human Services in 45  
365 C.F.R. parts 160 and 164, or a program or a qualified service  
366 program as defined in 42 C.F.R. part 2, to the extent the  
367 covered entity, business associate, or program maintains  
368 personal information in the same manner as medical information  
369 or protected health information as described in subparagraph 4.  
370 and as long as the covered entity, business associate, or  
371 program does not use personal information for targeted  
372 advertising in conjunction with third parties and does not sell  
373 or share personal information to a third party unless such sale  
374 or sharing is covered by an exception under this section.

375 6. Identifiable private information collected for purposes  
376 of research as defined in 45 C.F.R. s. 164.501 conducted in  
377 accordance with the Federal Policy for the Protection of Human  
378 Subjects for purposes of 45 C.F.R. part 46, the good clinical  
379 practice guidelines issued by the International Council for  
380 Harmonisation of Technical Requirements for Pharmaceuticals for  
381 Human Use, or the Protection for Human Subjects for purposes of  
382 21 C.F.R. Parts 50 and 56, or personal information that is used



Amendment No. 1

383 or shared in research conducted in accordance with one or more  
384 of these standards.

385 7. Information and documents created for purposes of the  
386 federal Health Care Quality Improvement Act of 1986 and related  
387 regulations, or patient safety work product for purposes of 42  
388 C.F.R. part 3, established pursuant to 42 U.S.C. s. 299b-21  
389 through 299b-26.

390 8. Information that is deidentified in accordance with 45  
391 C.F.R. part 164 and derived from individually identifiable  
392 health information as described in the Health Insurance  
393 Portability and Accountability Act of 1996, or identifiable  
394 personal information, consistent with the Federal Policy for the  
395 Protection of Human Subjects or the human subject protection  
396 requirements of the United States Food and Drug Administration.

397 9. Information used only for public health activities and  
398 purposes as described in 45 C.F.R. s. 164.512.

399 10. Personal information collected, processed, sold, or  
400 disclosed pursuant to the federal Fair Credit Reporting Act, 15  
401 U.S.C. s. 1681 and implementing regulations.

402 11. Nonpublic personal information collected, processed,  
403 sold, or disclosed pursuant to the Gramm-Leach-Bliley Act, 15  
404 U.S.C. s. 6801 et seq. and implementing regulations.

405 12. A financial institution as defined in the Gramm-Leach-  
406 Bliley Act, 15 U.S.C. s. 6801 et seq. to the extent the  
407 financial institution maintains personal information in the same

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

408 manner as nonpublic personal information as described in  
409 subparagraph 11., and as long as such financial institution does  
410 not use personal information for targeted advertising in  
411 conjunction with third parties and does not sell or share  
412 personal information to a third party unless such sale or  
413 sharing is covered by an exception under this section.

414 13. Personal information collected, processed, sold, or  
415 disclosed pursuant to the federal Driver's Privacy Protection  
416 Act of 1994, 18 U.S.C. s. 2721 et. seq.

417 14. Education information covered by the Family  
418 Educational Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34  
419 C.F.R. part 99.

420 15. Information collected as part of public or peer-  
421 reviewed scientific or statistical research in the public  
422 interest.

423 (3) PRIVACY POLICY FOR PERSONAL INFORMATION.—

424 (a) A controller that collects personal information about  
425 consumers shall maintain an online privacy policy, make such  
426 policy available from its homepage, and update the information  
427 at least once every 12 months unless the privacy policy has not  
428 changed and an update is not reasonably required. The online  
429 privacy policy must include the following information:

430 1. Any Florida-specific consumer privacy rights.

431 2. A list of the categories of personal information the  
432 controller collects or has collected about consumers.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

433 3. Of the categories identified in subparagraph 2., a list  
434 that identifies which categories of personal information the  
435 controller sells or shares or has sold or shared about  
436 consumers. If the controller does not sell or share personal  
437 information, the controller shall disclose that fact.

438 4. The right to request deletion or correction of certain  
439 personal information.

440 5. The right to opt-out of the sale or sharing to third  
441 parties.

442 (b) A consumer has the right to request that a controller  
443 disclose to the consumer the categories of personal information  
444 the controller collects from or about consumers, and such  
445 request does not need to be a verified consumer request.

446 (c) A controller that collects personal information shall,  
447 at or before the point of collection, inform consumers of the  
448 categories of personal information to be collected and the  
449 purposes for which the categories of personal information will  
450 be used. A controller that does not collect personal information  
451 directly from the consumer does not need to provide a notice at  
452 collection to the consumer if it does not sell or share the  
453 consumer's personal information.

454 (d) A controller may not collect additional categories of  
455 personal information or use personal information collected for  
456 additional purposes without providing the consumer with notice  
457 consistent with this section.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

458 (e) A controller that collects a consumer's personal  
459 information shall implement and maintain reasonable security  
460 procedures and practices appropriate to the nature of the  
461 personal information to protect the personal information from  
462 unauthorized or illegal access, destruction, use, modification,  
463 or disclosure. A controller must require any processors to  
464 implement and maintain the same or similar security procedures  
465 and practices for personal information.

466 (f) A controller shall adopt and implement a retention  
467 schedule that prohibits the use or retention of personal  
468 information by the controller or processor: after the  
469 satisfaction of the initial purpose for which such information  
470 was collected or obtained; after the expiration or termination  
471 of the contract pursuant to which the information was collected  
472 or obtained; or 2 years after the consumer's last interaction  
473 with the controller. This paragraph does not apply to personal  
474 information used or retained for the following purposes:

475 1. Detection of security threats or incidents; protection  
476 against malicious, deceptive, fraudulent, unauthorized, or  
477 illegal activity or access; or prosecution of those responsible  
478 for such activity or access.

479 2. Compliance with a legal obligation, including any  
480 federal retention laws.

Amendment No. 1

481 3. As reasonably needed for the protection of the  
482 controller's interests related to existing disputes, legal  
483 action, or governmental investigations.

484 4. Assuring the physical security of persons or property.

485 (4) CONSUMER RIGHT TO REQUEST COPY OF PERSONAL DATA  
486 COLLECTED, SOLD, OR SHARED.-

487 (a) A consumer has the right to request that a controller  
488 that collects personal information about the consumer disclose  
489 the personal information that has been collected, sold, or  
490 shared by or on behalf of the controller.

491 (b) A consumer has the right to request that a controller  
492 that collects personal information about the consumer to  
493 disclose the following to the consumer:

494 1. The specific pieces of personal information that have  
495 been collected about the consumer.

496 2. The categories of sources from which it collected the  
497 consumer's personal information.

498 3. The purpose for collecting, selling, or sharing the  
499 consumer's personal information.

500 4. The categories of third parties which the controller  
501 shares the consumer's personal information.

502 (c) A controller that collects personal information about  
503 a consumer shall disclose the information specified in paragraph

504 (b) to the consumer upon receipt of a verifiable consumer  
505 request.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

506 (d) A consumer has the right to request that a controller  
507 that sells or shares personal information about the consumer to  
508 disclose to the consumer:

509 1. The categories of personal information about the  
510 consumer the controller sold or shared.

511 2. The categories of third parties to which the personal  
512 information about the consumer was sold or shared.

513 3. The categories of personal information about the  
514 consumer that the business disclosed to a processor.

515 (e) A controller that sells or shares personal information  
516 about consumers shall disclose the information specified in  
517 paragraph (d) to the consumer upon receipt of a verifiable  
518 consumer request.

519 (f) This subsection does not require a controller to do  
520 the following:

521 1. Retain any personal information about a consumer  
522 collected for a single one-time transaction if, in the ordinary  
523 course of business, that information about the consumer is not  
524 retained.

525 2. Reidentify or otherwise link any data that, in the  
526 ordinary course of business, is not maintained in a manner that  
527 would be considered personal information.

528 (g) To comply with this subsection, a controller shall, in  
529 a form that is reasonably accessible to consumers, make  
530 available two or more methods for submitting verifiable consumer

Amendment No. 1

531 requests, including, but not limited to, a toll-free number and,  
532 if the controller maintains an Internet website, a link on the  
533 homepage of the website. The controller may not require the  
534 consumer to create an account with the controller in order to  
535 make a verifiable consumer request.

536 (h) The controller shall deliver the information required  
537 or act on the request in this subsection to a consumer free of  
538 charge within 45 days after receiving a verifiable consumer  
539 request. The response period may be extended once by 45  
540 additional days when reasonably necessary, while taking into  
541 account the complexity of the consumer's requests, provided the  
542 controller informs the consumer of any such extension within the  
543 initial 45-day response period along with the reason for the  
544 extension. The information must be delivered in a readily usable  
545 format that allows the consumer to transmit the information from  
546 one person to another person without hindrance.

547 (i) A controller may provide personal information to a  
548 consumer at any time, but may not be required to provide  
549 personal information to a consumer more than twice in a 12-month  
550 period.

551 (j) This subsection does not apply to personal information  
552 relating solely to households.

553 (5) RIGHT TO HAVE PERSONAL INFORMATION DELETED OR  
554 CORRECTED.—

Amendment No. 1

555 (a) A consumer has the right to request that a controller  
556 delete any personal information about the consumer which the  
557 controller has collected from the consumer.

558 (b) A controller that receives a verifiable consumer  
559 request to delete the consumer's personal information shall  
560 delete the consumer's personal information from its records and  
561 direct any processors to delete such information.

562 (c) A controller, or a processor acting pursuant to its  
563 contract with the controller, may not be required to comply with  
564 a consumer's request to delete the consumer's personal  
565 information if it is reasonably necessary for the controller or  
566 processor to maintain the consumer's personal information to do  
567 any of the following:

568 1. Complete the transaction for which the personal  
569 information was collected.

570 2. Fulfill the terms of a written warranty or product  
571 recall conducted in accordance with federal law.

572 3. Provide a good or service requested by the consumer, or  
573 reasonably anticipated to be requested within the context of a  
574 controller's ongoing business relationship with the consumer, or  
575 otherwise perform a contract between the controller and the  
576 consumer.

577 4. Detect security incidents, protect against malicious,  
578 deceptive, fraudulent, or illegal activity; or prosecute those  
579 responsible for that activity.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM



Amendment No. 1

580 5. Debug to identify and repair errors that impair  
581 existing intended functionality.

582 6. Engage in public or peer-reviewed scientific,  
583 historical, or statistical research in the public interest that  
584 adheres to all other applicable ethics and privacy laws when the  
585 controller's deletion of the information is likely to render  
586 impossible or seriously impair the achievement of such research,  
587 if the consumer has provided informed consent.

588 7. Enable solely internal uses that are reasonably aligned  
589 with the expectations of the consumer based on the consumer's  
590 relationship with the controller.

591 8. Comply with a legal obligation.

592 9. As reasonably needed to protect the controller's  
593 interests against existing disputes, legal action, or  
594 governmental investigations.

595 10. Otherwise internally use the consumer's personal  
596 information in a lawful manner that is compatible with the  
597 context in which the consumer provided the information.

598 (d) A consumer has the right to make a request to correct  
599 inaccurate personal information to a controller that maintains  
600 inaccurate personal information about the consumer, while taking  
601 into account the nature of the personal information and the  
602 purposes of the processing of the personal information. A  
603 controller that receives a verifiable consumer request to  
604 correct inaccurate personal information shall use commercially

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

605 reasonable efforts to correct the inaccurate personal  
606 information as directed by the consumer and direct any  
607 processors to correct such information. If a controller  
608 maintains a self-service mechanism to allow a consumer to  
609 correct certain personal information, the controller may require  
610 the consumer to correct their own personal information through  
611 such mechanism.

612 (6) RIGHT TO OPT-OUT OF THE SALE OR SHARING OF PERSONAL  
613 INFORMATION.-

614 (a) A consumer has the right at any time to direct a  
615 controller not to sell or share the consumer's personal  
616 information to a third party. This right may be referred to as  
617 the right to opt-out.

618 (b) A controller that sells or shares personal information  
619 to third parties shall provide notice to consumers that this  
620 information may be sold and shared and that consumers have the  
621 right to opt-out of the sale or sharing of their personal  
622 information.

623 (c) Notwithstanding paragraph (a), a controller may not  
624 sell or share the personal information of a minor consumer if  
625 the controller has actual knowledge that the consumer is not 16  
626 years of age or older. However, if the consumer who is between  
627 13 and 16 years of age, or if the parent or guardian of a  
628 consumer who is 12 years of age or younger, has affirmatively  
629 authorized the sale or sharing of such consumer's personal

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

630 information, then a controller may sell or share such  
631 information in accordance with this section. A controller that  
632 willfully disregards the consumer's age is deemed to have actual  
633 knowledge of the consumer's age. This right may be referred to  
634 as the right to opt-in. A controller that complies with the  
635 verifiable parental consent requirements of the Children's  
636 Online Privacy Protection Act, 15 U.S.C. s. 6501 et seq., shall  
637 be deemed compliant with any obligation to obtain parental  
638 consent.

639 (d) A controller that has received direction prohibiting  
640 the sale or sharing of the consumer's personal information or  
641 that has not received consent to sell or share a minor  
642 consumer's personal information is prohibited from selling or  
643 sharing the consumer's personal information immediately after  
644 its receipt of such direction, unless the consumer subsequently  
645 provides express authorization for the sale or sharing of the  
646 consumer's personal information.

647 (e) A controller does not sell or share personal  
648 information when:

649 1. The business discloses personal information to another  
650 controller, a processor, or a government entity for the purpose  
651 of responding to an alert of a present risk of harm to a person  
652 or property, detecting security incidents, proecting against  
653 malicious, deceptive, fraudulent, or illegal activity, or  
654 prosecuting those responsible for that activity.

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Amendment No. 1

655 2. A consumer uses or directs the controller to  
656 intentionally disclose personal information or uses the  
657 controller to intentionally interact with a third party. An  
658 intentional interaction occurs when the consumer intends to  
659 interact with the third party, via one or more deliberate  
660 interactions. Hovering over, muting, pausing, or closing a given  
661 piece of content does not constitute a consumer's intent to  
662 interact with a third party.

663 3. The controller uses or shares an identifier for a  
664 consumer who has opted out of the sale or sharing of the  
665 consumer's personal information for the purposes of alerting  
666 third parties that the consumer has opted out of the sale or  
667 sharing of the consumer's personal information.

668 4. The controller uses or shares with a processor personal  
669 information of a consumer that is necessary to perform a  
670 contracted purpose if both of the following conditions are met:

671 a. The controller has provided notice that the personal  
672 information of the consumer is being used or shared in its  
673 privacy policy.

674 b. The processor does not further collect, sell, share, or  
675 use the personal information of the consumer except as necessary  
676 to perform the contracted purpose.

677 5. The controller transfers to a third party the personal  
678 information of a consumer as an asset that is part of a merger,  
679 acquisition, bankruptcy, or other transaction in which the third

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

680 party assumes control of all or part of the controller, provided  
681 that information is used or shared consistently with this  
682 section. If a third party materially alters how it uses or  
683 shares the personal information of a consumer in a manner that  
684 is materially inconsistent with the promises made at the time of  
685 collection, it shall provide prior notice of the new or changed  
686 practice to the consumer. The notice must be sufficiently  
687 prominent and robust to ensure that consumers can easily  
688 exercise choices consistent with this section.

689 (7) FORM TO OPT-OUT OF SALE OR SHARING OF PERSONAL  
690 INFORMATION.-

691 (a) A controller shall:

692 1. In a form that is reasonably accessible to consumers,  
693 provide a clear and conspicuous link on the controller's  
694 Internet homepage, entitled "Do Not Sell or Share My Personal  
695 Information," to an Internet webpage that enables a consumer, or  
696 a person authorized by the consumer, to opt-out of the sale or  
697 sharing of the consumer's personal information. A controller may  
698 not require a consumer to create an account in order to direct  
699 the controller not to sell the consumer's personal information.

700 2. In a form that is reasonably accessible to consumers,  
701 include a description of a consumer's rights along with a  
702 separate link to the "Do Not Sell or Share My Personal  
703 Information" Internet webpage in:

704 a. Its online privacy policy or policies.

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

705 b. Any Florida-specific consumer privacy rights.

706 3. Ensure that all individuals responsible for handling  
707 consumer inquiries about the controller's privacy practices or  
708 the controller's compliance with this section are informed of  
709 all requirements in subsection (3) and this subsection and how  
710 to direct consumers to exercise such rights.

711 4. For consumers who opt-out of the sale or sharing of  
712 their personal information, refrain from selling or sharing  
713 personal information collected by the controller about the  
714 consumer.

715 5. For consumers who opted-out of the sale or sharing of  
716 their personal information, respect the consumer's decision to  
717 opt-out for at least 12 months before requesting that the  
718 consumer authorize the sale of the consumer's personal  
719 information.

720 6. Use any personal information collected from the  
721 consumer in connection with the submission of the consumer's  
722 opt-out request solely for the purposes of complying with the  
723 opt-out request.

724 (b) This subsection does not require a controller to  
725 include the required links and text on the homepage that the  
726 controller makes available to the public generally, if the  
727 controller maintains a separate and additional homepage that is  
728 dedicated to Florida consumers and that includes the required

Amendment No. 1

729 links and text, and the controller takes reasonable steps to  
730 ensure that Florida consumers are directed to such homepage.

731 (c) A consumer may authorize another person to opt-out of  
732 the sale or sharing of the consumer's personal information on  
733 the consumer's behalf, and a controller shall comply with an  
734 opt-out request received from a person authorized by the  
735 consumer to act on the consumer's behalf, pursuant to rules  
736 adopted by the department.

737 (8) DISCRIMINATION AGAINST CONSUMERS WHO EXERCISE PRIVACY  
738 RIGHTS.—

739 (a)1. A controller may not discriminate against a consumer  
740 who exercised any of the consumer's rights under this section.  
741 Discrimination under this subparagraph includes, but is not  
742 limited to:

743 a. Denying goods or services to the consumer.

744 b. Charging different prices or rates for goods or  
745 services, including through the use of discounts or other  
746 benefits or imposing penalties.

747 c. Providing a different level or quality of goods or  
748 services to the consumer.

749 d. Suggesting that the consumer will receive a different  
750 price or rate for goods or services or a different level or  
751 quality of goods or services.

752 2. This paragraph does not prohibit a controller from  
753 charging a consumer a different price or rate, or from providing

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

754 a different level or quality of goods or services to the  
755 consumer, if that difference is reasonably related to the value  
756 provided to the controller by the consumer's data or is related  
757 to a consumer's voluntary participation in a bona fide loyalty,  
758 rewards, premium features, discounts, or club card program.

759 (b)1. A controller may offer financial incentives,  
760 including payments to consumers as compensation, for the  
761 collection, sale, share, or deletion of personal information.

762 2. A controller may offer a different price, rate, level,  
763 or quality of goods or services to the consumer if the price or  
764 difference is directly related to the value provided to the  
765 controller by the consumer's personal information or is related  
766 to a consumer's voluntary participation in a bona fide loyalty,  
767 rewards, premium features, discounts, or club card program.

768 3. A controller that offers any financial incentives shall  
769 notify consumers of the financial incentives.

770 4. A controller may enter a consumer into a financial  
771 incentive program only if the consumer gives the controller  
772 prior consent that clearly describes the material terms of the  
773 financial incentive program. The consent may be revoked by the  
774 consumer at any time.

775 5. A controller may not use financial incentive practices  
776 that are unjust, unreasonable, coercive, or usurious in nature.



Amendment No. 1

777 (c) A controller may offer, and a consumer may voluntarily  
778 participate in, a bona fide loyalty, rewards, premium features,  
779 discounts, or club card program.

780 (9) CONTRACTS AND ROLES.—

781 (a) Any contract between a controller and a processor  
782 must:

783 1. Prohibit the processor from selling or sharing the  
784 personal information;

785 2. Prohibit the processor from retaining, using, or  
786 disclosing the personal information other than for the purposes  
787 specified in the contract with the controller;

788 3. Prohibit the processor from combining the personal  
789 information that the processor receives from or on behalf of the  
790 controller with personal information that it receives from or on  
791 behalf of another person or that the processor collects from its  
792 own interaction with the consumer, provided that the processor  
793 may combine personal information to perform any purpose  
794 specified in the contract and such combination is reported to  
795 the controller;

796 4. Govern the processor's personal information processing  
797 procedures with respect to processing performed on behalf of the  
798 controller, including processing instructions, the nature and  
799 purpose of processing, the type of information subject to  
800 processing, the duration of processing, and the rights and  
801 obligations of both the controller and processor;

044395 - h969-strike.docx

Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

802 5. Require the processor to return or delete all personal  
803 information under the contract to the controller as requested by  
804 the controller at the end of the provision of services, unless  
805 retention of the information is required by law; and

806 6. Upon request of the controller, require the processor  
807 to make available to the controller all information in its  
808 possession under the contract to demonstrate compliance with  
809 this section.

810 (b) Determining whether a person is acting as a controller  
811 or processor with respect to a specific processing of data is a  
812 fact-based determination that depends upon the context in which  
813 personal information is to be processed. The contract between a  
814 controller and processor must reflect their respective roles and  
815 relationships related to handling personal information.

816 Irrespective of the terms of the arrangement or contract, the  
817 consumer may exercise his or her rights against a controller or  
818 a processor that does not act in accordance with the terms of  
819 the contract with the controller. A processor that continues to  
820 adhere to a controller's instructions with respect to a specific  
821 processing of personal information remains a processor.

822 (c) A third party may not sell or share personal  
823 information about a consumer that has been sold or shared to the  
824 third party by a controller unless the consumer has received  
825 explicit notice from the third party and is provided an  
826 opportunity to opt-out by the third party.

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

827 (d) A third party or a processor must require any  
828 subcontractor to meet the same obligations of such third party  
829 or processor with respect to personal information.

830 (e) A third party or processor or any subcontractor  
831 thereof who violates any of the restrictions imposed upon it  
832 under this section is liable or responsible for any failure to  
833 comply with this section. A controller that discloses personal  
834 information to a third party or processor in compliance with  
835 this section is not liable or responsible if the person  
836 receiving the personal information uses it without complying  
837 with the restrictions under this section, provided that at the  
838 time of disclosing the personal information, the controller does  
839 not have actual knowledge or reason to believe that the person  
840 intends to not comply with this section.

841 (f) Any provision of a contract or agreement of any kind  
842 that waives or limits in any way a consumer's rights under this  
843 section, including, but not limited to, any right to a remedy or  
844 means of enforcement, is deemed contrary to public policy and is  
845 void and unenforceable. This section does not prevent a consumer  
846 from declining to request information from a controller,  
847 declining to opt-out of a controller's sale or sharing of the  
848 consumer's personal information, or authorizing a controller to  
849 sell or share the consumer's personal information after  
850 previously opting out.

851 (10) CIVIL ACTIONS; PRIVATE RIGHT OF ACTION.—

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

852 (a) A Florida consumer may bring a civil action against a  
853 controller, processor or person pursuant to this section only  
854 for the following:

855 1. Failure to protect a consumer's nonencrypted and  
856 nonredacted personal information or e-mail address, in  
857 combination with a password or security question and answer that  
858 would allow access to the consumer's account, and is subject to  
859 an unauthorized access and exfiltration, theft, or disclosure as  
860 a result of a violation of the duty to implement and maintain  
861 reasonable security procedures and practices.

862 2. Failure to delete or correct a consumer's personal  
863 information pursuant to this section after receiving a  
864 verifiable consumer request or directions to delete or correct  
865 from a controller unless the controller, processor or person  
866 qualifies for an exception to the requirements to delete or  
867 correct under this section.

868 3. Continuing to sell or share a consumer's personal  
869 information after the consumer chooses to opt-out pursuant to  
870 this section, or selling or sharing the personal information of  
871 a consumer age 16 or younger without obtaining consent as  
872 required by this section.

873 (b) A court may grant the following relief to a consumer:

874 1. Damages in an amount not less than \$100 and not greater  
875 than \$750 per consumer per incident or actual damages, whichever  
876 is greater.

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Published On: 4/13/2021 4:56:47 PM

Amendment No. 1

877 2. Injunctive or declaratory relief.

878 (c) Upon prevailing, the consumer shall recover reasonable  
879 attorney fees and costs.

880 (d) Any action under this subsection may be brought only  
881 by or on behalf of a Florida consumer.

882 (e) Except as authorized under this subsection and  
883 subsection (13), liability for a tort, contract claim or  
884 consumer protection claim which inures to the benefit of a  
885 consumer does not arise from the failure of a controller,  
886 processor or person to comply with this section and evidence of  
887 such may only be used to prove a cause of action under this  
888 subsection or subsection (11).

889 (11) ENFORCEMENT AND IMPLEMENTATION.-

890 (a) A violation of this section is an unfair and deceptive  
891 trade practice actionable under part II of chapter 501 solely by  
892 the department. If the department has reason to believe that any  
893 controller, processor, or person is in violation of this  
894 section, the department may bring an action against such  
895 controller, processor, or person for an unfair or deceptive act  
896 or practice. For the purpose of bringing an action pursuant to  
897 this section, s. 501.211 and s. 501.212(4) do not apply. Civil  
898 penalties may be tripled if the violation involves a consumer  
899 who the controller, processor or person has actual knowledge is  
900 16 years of age or younger.

Amendment No. 1

901 (b) After the department has notified a controller,  
902 processor or person in writing of an alleged violation, the  
903 department may in its discretion grant a 45-day period to cure  
904 the alleged violation. The department may consider the number of  
905 violations, the substantial likelihood of injury to the public,  
906 or the safety of persons or property when determining whether to  
907 grant 45 days to cure. If the violation is cured to the  
908 satisfaction of the department and proof is provided to the  
909 department, the department may issue a letter of guidance that  
910 indicates that the controller, processor or person will not be  
911 offered a 45-day cure period for any future violations. If the  
912 controller, processor or person fails to cure the violation  
913 within 45 days, the department may bring an action against the  
914 controller, processor or person for the alleged violation.

915 (c) This subsection does not affect the private right of  
916 action provided in subsection (10).

917 (d) The department may adopt rules to implement this  
918 section.

919 (12) JURISDICTION.—

920 (1) For purposes of bringing an action in accordance with  
921 subsection (10) and (11), any person that meets the definition  
922 of controller, as defined in this section, that collects, sells,  
923 or shares the personal information of Florida consumers, is  
924 conclusively presumed to be both engaged in substantial and not  
925 isolated activities within this state and operating, conducting,

Amendment No. 1

926 engaging in, or carrying on a business, and doing business in  
927 this state, and is therefore subject to the jurisdiction of the  
928 courts of this state.

929 Section 3. This act shall take effect July 1, 2022.

930

931 -----

932 **T I T L E A M E N D M E N T**

933 Remove everything before the enacting clause and insert:  
934 An act relating to consumer data privacy; amending s. 501.171,  
935 F.S.; revising the definition of "personal information" to  
936 include additional specified information to data breach  
937 reporting requirements; creating s. 501.173, F.S.; providing  
938 definitions; providing exceptions; requiring controllers that  
939 collect a consumer's personal data to disclose certain  
940 information regarding data collection and selling practices; to  
941 the consumer at or before the point of collection; specifying  
942 that such information may be provided through a general privacy  
943 policy or through a notice informing the consumer that  
944 additional specific information will be provided upon a certain  
945 request; prohibiting controllers from collecting additional  
946 categories of personal information or using personal information  
947 for additional purposes without notifying the consumer;  
948 requiring controllers that collect personal information to  
949 implement reasonable security procedures and practices to  
950 protect the information; authorizing consumers to request

## Amendment No. 1

951 controllers to disclose the specific personal information the  
952 controller has collected about the consumer; requiring  
953 controllers to make available two or more methods for consumers  
954 to request their personal information; requiring controllers to  
955 provide such information free of charge within a certain  
956 timeframe and in a certain format upon receiving a verifiable  
957 consumer request; specifying requirements for third parties with  
958 respect to consumer information acquired or used; providing  
959 construction; authorizing consumers to request controllers to  
960 delete or correct personal information the controller has  
961 collected about the consumers; providing exceptions; specifying  
962 requirements for controllers to comply with deletion or  
963 correction requests; authorizing consumers to opt out of third-  
964 party disclosure of personal information collected by a  
965 controller; prohibiting controllers from selling or disclosing  
966 the personal information of consumers younger than a certain  
967 age, except under certain circumstances; prohibiting controllers  
968 from selling or sharing a consumer's information if the consumer  
969 has opted out of such disclosure; prohibiting controllers from  
970 taking certain actions to retaliate against consumers who  
971 exercise certain rights; providing applicability; providing that  
972 a contract or agreement that waives or limits certain consumer  
973 rights is void and unenforceable; providing for civil actions  
974 and a private right of action for consumers under certain  
975 circumstances; providing civil remedies; authorizing the

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Published On: 4/13/2021 4:56:47 PM



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 969 (2021)

Amendment No. 1

976 | Department of Legal Affairs to bring an action under the Florida  
977 | Unfair or Deceptive Trade Practices Act and to adopt rules;  
978 | providing that controllers must have a specified timeframe to  
979 | cure any violations; providing an effective date.

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Published On: 4/13/2021 4:56:47 PM

Page 41 of 41