

1 A bill to be entitled
2 An act relating to consumer data privacy; amending s.
3 501.171, F.S.; revising the definition of "personal
4 information" to include additional specified
5 information to data breach reporting requirements;
6 creating s. 501.173, F.S.; providing definitions;
7 requiring businesses that collect a consumer's
8 personal data to disclose certain information
9 regarding data collection and selling practices; to
10 the consumer at or before the point of collection;
11 specifying that such information may be provided
12 through a general privacy policy or through a notice
13 informing the consumer that additional specific
14 information will be provided upon a certain request;
15 prohibiting businesses from collecting additional
16 categories of personal information or using personal
17 information for additional purposes without notifying
18 the consumer; requiring businesses that collect
19 personal information to implement reasonable security
20 procedures and practices to protect the information;
21 authorizing consumers to request businesses to
22 disclose the specific personal information the
23 business has collected about the consumer; requiring
24 businesses to make available two or more methods for
25 consumers to request their personal information;

26 requiring businesses to provide such information free
27 of charge within a certain timeframe and in a certain
28 format upon receiving a verifiable consumer request;
29 specifying requirements for third parties with respect
30 to consumer information acquired or used; providing
31 construction; authorizing consumers to request
32 businesses to delete or correct personal information
33 the businesses have collected about the consumers;
34 providing exceptions; specifying requirements for
35 businesses to comply with deletion or correction
36 requests; authorizing consumers to opt out of third-
37 party disclosure of personal information collected by
38 a business; prohibiting businesses from selling or
39 disclosing the personal information of consumers
40 younger than a certain age, except under certain
41 circumstances; prohibiting businesses from selling or
42 sharing a consumer's information if the consumer has
43 opted out of such disclosure; prohibiting businesses
44 from taking certain actions to retaliate against
45 consumers who exercise certain rights; providing
46 exceptions; providing applicability; providing that a
47 contract or agreement that waives or limits certain
48 consumer rights is void and unenforceable; providing a
49 private right of action for consumers whose
50 nonencrypted and nonredacted personal information or

51 e-mail addresses are subject to unauthorized access;
 52 providing civil remedies; authorizing the Department
 53 of Legal Affairs to bring a civil action for
 54 intentional or unintentional violations and to adopt
 55 rules; providing that businesses must have a specified
 56 timeframe to cure any violations; providing an
 57 effective date.
 58

59 Be It Enacted by the Legislature of the State of Florida:
 60

61 Section 1. Paragraph (g) of subsection (1) of section
 62 501.171, Florida Statutes, is amended to read:

63 501.171 Security of confidential personal information.—

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

65 (g)1. "Personal information" means either of the
 66 following:

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

70 (I) A social security number;

71 (II) A driver license or identification card number,
 72 passport number, military identification number, or other
 73 similar number issued on a government document used to verify
 74 identity;

75 (III) A financial account number or credit or debit card

76 | number, in combination with any required security code, access
 77 | code, or password that is necessary to permit access to an
 78 | individual's financial account;

79 | (IV) Any information regarding an individual's medical
 80 | history, mental or physical condition, or medical treatment or
 81 | diagnosis by a health care professional; or

82 | (V) An individual's health insurance policy number or
 83 | subscriber identification number and any unique identifier used
 84 | by a health insurer to identify the individual.

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

88 | c. An individual's biometric information as defined in s.
 89 | 501.173(1).

90 | 2. The term does not include information about an
 91 | individual that has been made publicly available by a federal,
 92 | state, or local governmental entity. The term also does not
 93 | include information that is encrypted, secured, or modified by
 94 | any other method or technology that removes elements that
 95 | personally identify an individual or that otherwise renders the
 96 | information unusable.

97 | Section 2. Section 501.173, Florida Statutes, is created
 98 | to read:

99 | 501.173 Consumer data privacy.-

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

101 (a) "Aggregate consumer information" means information
102 that relates to a group or category of consumers, from which the
103 identity of an individual consumer has been removed and is not
104 reasonably capable of being directly or indirectly associated or
105 linked with, any consumer or household, including via a device.
106 The term does not include one or more individual consumer
107 records that have been deidentified.

108 (b) "Biometric information" means an individual's
109 physiological, biological, or behavioral characteristics,
110 including an individual's deoxyribonucleic acid (DNA), that can
111 be used, singly or in combination with each other or with other
112 identifying data, to establish individual identity. The term
113 includes, but is not limited to, imagery of the iris, retina,
114 fingerprint, face, hand, palm, vein patterns, and voice
115 recordings, from which an identifier template, such as a
116 faceprint, a minutiae template, or a voiceprint, can be
117 extracted, and keystroke patterns or rhythms, gait patterns or
118 rhythms, and sleep, health, or exercise data that contain
119 identifying information.

120 (c) "Business" means:

121 1. A sole proprietorship, partnership, limited liability
122 company, corporation, association, or legal entity that meets
123 the following requirements:

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

126 b. Does business in this state;

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

129 d. Determines the purposes and means of processing
130 personal information about consumers alone or jointly with
131 others; and

132 e. Satisfies one or more of the following thresholds:

133 (I) Has global annual gross revenues in excess of \$25
134 million, as adjusted in January of every odd-numbered year to
135 reflect any increase in the Consumer Price Index.

136 (II) Annually buys, receives for the business's commercial
137 purposes, sells, or shares for commercial purposes, the personal
138 information of 50,000 or more consumers, households, or devices.

139 (III) Derives 50 percent or more of its global annual
140 revenues from selling or sharing personal information about
141 consumers.

142 2. Any entity that controls or is controlled by a business
143 and that shares common branding with the business. As used in
144 this subparagraph, the term:

145 a. "Control" means:

146 (I) Ownership of, or the power to vote, more than 50
147 percent of the outstanding shares of any class of voting
148 security of a business;

149 (II) Control in any manner over the election of a majority
150 of the directors, or of individuals exercising similar

151 functions; or

152 (III) The power to exercise a controlling influence over
153 the management of a company.

154 b. "Common branding" means a shared name, servicemark, or
155 trademark.

156 (d) "Business purpose" means the use of personal
157 information for the operational purpose of a business or service
158 provider, or other notified purposes, provided that the use of
159 personal information is reasonably necessary and proportionate
160 to achieve the operational purpose for which the personal
161 information was collected or processed or for another
162 operational purpose that is compatible with the context in which
163 the personal information was collected. The term includes:

164 1. Auditing relating to a current interaction with a
165 consumer and concurrent transactions, including, but not limited
166 to, counting ad impressions to unique visitors, verifying
167 positioning and quality of ad impressions, and auditing
168 compliance with this specification and other standards.

169 2. Detecting security incidents; protecting against
170 malicious, deceptive, fraudulent, or illegal activity; and
171 prosecuting those responsible for that activity.

172 3. Debugging to identify and repair errors that impair
173 existing intended functionality.

174 4. Short-term, transient use, provided that the personal
175 information is not disclosed to another third party and is not

176 used to build a profile about a consumer or otherwise alter an
177 individual consumer's experience outside the current
178 interaction, including, but not limited to, the contextual
179 customization of ads shown as part of the same interaction.

180 5. Performing services on behalf of the business or
181 service provider, including maintaining or servicing accounts,
182 providing customer service, processing or fulfilling orders and
183 transactions, verifying customer information, processing
184 payments, providing financing, providing analytic services, or
185 providing similar services on behalf of the business or service
186 provider.

187 6. Undertaking internal research for technological
188 development and demonstration.

189 7. Undertaking activities to verify or maintain the
190 quality or safety of a service or device that is owned,
191 manufactured, manufactured for, or controlled by the business,
192 and to improve, upgrade, or enhance the service or device that
193 is owned, manufactured, manufactured for, or controlled by the
194 business.

195 (e) "Collect" means to buy, rent, gather, obtain, receive,
196 or access any personal information pertaining to a consumer by
197 any means. The term includes, but is not limited to, actively or
198 passively receiving information from the consumer or by
199 observing the consumer's behavior.

200 (f) "Commercial purposes" means to advance the commercial

201 or economic interests of a person, such as inducing another
202 person to buy, rent, lease, join, subscribe to, provide, or
203 exchange products, goods, property, information, or services, or
204 directly or indirectly enabling or effecting a commercial
205 transaction.

206 (g) "Consumer" means a natural person who resides in or is
207 domiciled in this state, however identified, including by any
208 unique identifier, and who is:

209 1. In this state for other than a temporary or transitory
210 purpose; or

211 2. Domiciled in this state but resides outside this state
212 for a temporary or transitory purpose.

213 (h) "Deidentified" means information that does not
214 reasonably identify, relate to, or describe a particular
215 consumer, or is not reasonably capable of being directly or
216 indirectly associated or linked with a particular consumer,
217 provided that a business that uses deidentified information:

218 1. Implements technical safeguards that prohibit
219 reidentification of the consumer to whom the information may
220 pertain.

221 2. Implements business processes that specifically
222 prohibit reidentification of the information.

223 3. Implements business processes to prevent inadvertent
224 release of deidentified information.

225 4. Does not attempt to reidentify the information.

226 (i) "Department" means the Department of Legal Affairs.

227 (j) "Health insurance information" means a consumer's
228 insurance policy number or subscriber identification number, or
229 any unique identifier used by a health insurer to identify the
230 consumer, or any information in the consumer's application and
231 claims history, including any appeals records, if the
232 information is reasonably capable of being directly or
233 indirectly associated or linked with a consumer or household,
234 including via a device, by a business or service provider.

235 (k) "Homepage" means the introductory page of an Internet
236 website and any Internet webpage where personal information is
237 collected. In the case of a mobile application, the homepage is
238 the application's platform page or download page, a link within
239 the application, such as the "About" or "Information"
240 application configurations, or settings page, and any other
241 location that allows consumers to review the notice required by
242 subsection (9), including, but not limited to, before
243 downloading the application.

244 (l) "Person" means an individual, proprietorship, firm,
245 partnership, joint venture, syndicate, business trust, company,
246 corporation, limited liability company, association, committee,
247 and any other organization or group of persons acting in
248 concert.

249 (m) "Personal information" means information that
250 identifies, relates to, or describes a particular consumer or

251 household, or is reasonably capable of being directly or
252 indirectly associated or linked with, a particular consumer or
253 household.

254 1. The term includes, but is not limited to, the
255 following:

256 a. Identifiers such as a real name, alias, postal address,
257 unique identifier, online identifier, internet protocol address,
258 email address, account name, social security number, driver
259 license number, passport number, or other similar identifiers.

260 b. Information that identifies, relates to, or describes,
261 or could be associated with, a particular individual, including,
262 but not limited to, a name, signature, social security number,
263 physical characteristics or description, address, telephone
264 number, passport number, driver license or state identification
265 card number, insurance policy number, education, employment,
266 employment history, bank account number, credit card number,
267 debit card number, or any other financial information, medical
268 information, or health insurance information.

269 c. Characteristics of protected classifications under
270 state or federal law.

271 d. Commercial information, including records of personal
272 property, products or services purchased, obtained, or
273 considered, or other purchasing or consuming histories or
274 tendencies.

275 e. Biometric information.

276 f. Internet or other electronic network activity
277 information, including, but not limited to, browsing history,
278 search history, and information regarding a consumer's
279 interaction with an Internet website, application, or
280 advertisement.

281 g. Geolocation data.

282 h. Audio, electronic, visual, thermal, olfactory, or
283 similar information.

284 i. Professional or employment-related information.

285 j. Education information that is not publicly available,
286 personally identifiable information as defined in the Family
287 Educational Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34
288 C.F.R. part 99.

289 k. Inferences drawn from any of the information identified
290 in this paragraph to create a profile about a consumer
291 reflecting the consumer's preferences, characteristics,
292 psychological trends, predispositions, behavior, attitudes,
293 intelligence, abilities, and aptitudes.

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

295 a. Publicly and lawfully made available from federal,
296 state, or local government records.

297 b. Deidentified or aggregate consumer information.

298 (n) "Probabilistic identifier" means the identification of
299 a consumer or a device to a degree of certainty of more probable
300 than not based on any categories of personal information

301 included in, or similar to, the categories listed under
302 paragraph (m).

303 (o) "Processing" means any operation or set of operations
304 that are performed on personal data or on sets of personal data,
305 whether or not by automated means.

306 (p) "Pseudonymize" means the processing of personal
307 information in a manner that renders the personal information no
308 longer attributable to a specific consumer without the use of
309 additional information, provided that the additional information
310 is kept separately and is subject to technical and
311 organizational measures to ensure that the personal information
312 is not attributed to an identified or identifiable consumer.

313 (q) "Research" means scientific, systematic study and
314 observation, including, but not limited to, basic research or
315 applied research that is in the public interest and that adheres
316 to all other applicable ethics and privacy laws or studies
317 conducted in the public interest in the area of public health.
318 Research with personal information that may have been collected
319 from a consumer in the course of the consumer's interactions
320 with a business's service or device for other purposes must be:

321 1. Compatible with the business purpose for which the
322 personal information was collected.

323 2. Subsequently pseudonymized and deidentified, or
324 deidentified and in the aggregate, such that the information
325 does not reasonably identify, relate to, or describe, or is not

326 capable of being directly or indirectly associated or linked
327 with, a particular consumer.

328 3. Made subject to technical safeguards that prohibit
329 reidentification of the consumer to whom the information may
330 pertain.

331 4. Subject to business processes that specifically
332 prohibit reidentification of the information.

333 5. Made subject to business processes to prevent
334 inadvertent release of deidentified information.

335 6. Protected from any reidentification attempts.

336 7. Used solely for research purposes that are compatible
337 with the context in which the personal information was collected
338 and not used for any commercial purpose.

339 8. Subjected by the business conducting the research to
340 additional security controls that limit access to the research
341 data to only those individuals in a business necessary to carry
342 out the research purpose.

343 (r) "Sell" means to sell, rent, release, disclose,
344 disseminate, make available, transfer, or otherwise communicate
345 orally, in writing, or by electronic or other means, a
346 consumer's personal information by a business to another
347 business or a third party for monetary or other valuable
348 consideration.

349 (s) "Service" means work or labor furnished in connection
350 with the sale or repair of goods.

351 (t) "Service provider" means a sole proprietorship,
352 partnership, limited liability company, corporation,
353 association, or other legal entity that is organized or operated
354 for the profit or financial benefit of its shareholders or other
355 owners, that processes information on behalf of a business and
356 to which the business discloses a consumer's personal
357 information for a business purpose pursuant to a written
358 contract, provided that the contract prohibits the entity
359 receiving the information from retaining, using, or disclosing
360 the personal information for any purpose other than for the
361 specific purpose of performing the services specified in the
362 contract for the business, or as otherwise permitted by this
363 section, including retaining, using, or disclosing the personal
364 information for a commercial purpose other than providing the
365 services specified in the contract with the business.

366 (u) "Share" means to share, rent, release, disclose,
367 disseminate, make available, transfer, or access a consumer's
368 personal information for advertising. The term includes:

369 1. Allowing a third party to use or advertise to a
370 consumer based on a consumer's personal information without
371 disclosure of the personal information to the third party.

372 2. Monetary transactions, nonmonetary transactions, and
373 transactions for other valuable consideration between a business
374 and a third party for advertising for the benefit of a business.

375 (v) "Third party" means a person who is not any of the

376 following:

377 1. A business that collects personal information from
378 consumers under this section.

379 2. A person to whom the business discloses personal
380 information about consumers for a business purpose pursuant to a
381 written contract.

382 (w) "Unique identifier" means a persistent identifier that
383 can be used to recognize a consumer, a family, or a device that
384 is linked to a consumer or family, over time and across
385 different services, including, but not limited to, a device
386 identifier; an Internet Protocol address; cookies, beacons,
387 pixel tags, mobile ad identifiers, or similar technology;
388 customer number, unique pseudonym, or user alias; telephone
389 numbers, or other forms of persistent or probabilistic
390 identifiers which can be used to identify a particular consumer
391 or device. As used in this paragraph, the term "family" means a
392 custodial parent or guardian and any minor children of whom the
393 parent or guardian has custody, or a household.

394 (x) "Verifiable consumer request" means a request that is
395 made by a consumer, by a consumer on behalf of the consumer's
396 minor child, or by a natural person or a person authorized by
397 the consumer to act on the consumer's behalf, and that the
398 business can reasonably verify pursuant to rules adopted by the
399 department to be the consumer about whom the business has
400 collected personal information. A business is not obligated to

401 provide information to the consumer if the business cannot
402 verify that the consumer making the request is the consumer
403 about whom the business has collected information or is a person
404 authorized by the consumer to act on the consumer's behalf.

405 (2) PRIVACY POLICY FOR PERSONAL INFORMATION.—

406 (a) A business that collects personal information about
407 consumers shall maintain an online privacy policy, make such
408 policy available on its Internet website, and update the
409 information at least once every 12 months. The online privacy
410 policy must include the following information:

411 1. Any Florida-specific consumer privacy rights.

412 2. A list of the categories of personal information the
413 business collects or has collected about consumers.

414 3. Of the categories identified in subparagraph 2., a list
415 that identifies which categories of personal information the
416 business sells or shares or has sold or shared about consumers.
417 If the business does not sell or share personal information, the
418 business shall disclose that fact.

419 4. Of the categories identified in subparagraph 2., a list
420 that identifies which categories of personal information the
421 business discloses or shares or has disclosed or shared about
422 consumers for a business purpose. If the business does not
423 disclose or share personal information for a business purpose,
424 the business shall disclose that fact.

425 5. The right to opt-out of the sale or sharing to third

426 parties and the ability to request deletion or correction of
427 certain personal information.

428 (b) A consumer has the right to request that a business
429 that collects personal information disclose to the consumer the
430 categories and specific pieces of personal information the
431 business collects from or about consumers.

432 (c) A business that collects personal information shall,
433 at or before the point of collection, inform consumers of the
434 categories of personal information to be collected and the
435 purposes for which the categories of personal information will
436 be used.

437 (d) A business may not collect additional categories of
438 personal information or use personal information collected for
439 additional purposes without providing the consumer with notice
440 consistent with this section.

441 (e) A business shall provide the information specified in
442 paragraph (b) to a consumer only upon receipt of a verifiable
443 consumer request.

444 (f) A business shall provide and follow a retention
445 schedule that prohibits the use and retention of personal
446 information after satisfaction of the initial purpose for
447 collecting or obtaining such information, or after the duration
448 of a contract, or 1 year after the consumer's last interaction
449 with the business, whichever occurs first. This paragraph does
450 not apply to biometric information used for ticketing purposes

451 and does not apply if such information is only kept for the time
452 related to the duration of the ticketed event.

453 (3) CONSUMER RIGHT TO REQUEST COPY OF PERSONAL DATA
454 COLLECTED.—

455 (a) A consumer has the right to request that a business
456 that collects personal information about the consumer disclose
457 the personal information that has been collected by the
458 business.

459 (b) A business that receives a verifiable consumer request
460 from a consumer to access personal information shall promptly
461 take steps to disclose and deliver, free of charge to the
462 consumer, the personal information required by this section. The
463 information may be delivered by mail or electronically, and if
464 provided electronically, the information must be in a portable
465 and, to the extent technically feasible, readily useable format
466 that allows the consumer to transmit this information to another
467 entity without hindrance. A business may provide personal
468 information to a consumer at any time, but may not be required
469 to provide personal information to a consumer more than twice in
470 a 12-month period.

471 (c) A business shall disclose the following to the
472 consumer:

473 1. The specific pieces of personal information it has
474 collected about the consumer.

475 2. The categories and sources from which it collected the

476 consumer's personal information.

477 3. The business or commercial purpose for collecting or
478 selling the consumer's personal information.

479 4. The categories of third parties which the business
480 shares the consumer's personal information.

481 (d) A business that collects personal information about a
482 consumer shall disclose the information specified in paragraph
483 (a) to the consumer upon receipt of a verifiable consumer
484 request from the consumer.

485 (e) This subsection does not require a business to do the
486 following:

487 1. Retain any personal information about a consumer
488 collected for a single one-time transaction if, in the ordinary
489 course of business, that information about the consumer is not
490 retained.

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

494 (4) RIGHT TO HAVE PERSONAL INFORMATION DELETED OR
495 CORRECTED.—

496 (a) A consumer has the right to request that a business
497 delete any personal information about the consumer which the
498 business has collected from the consumer.

499 (b) A business that receives a verifiable consumer request
500 from a consumer to delete the consumer's personal information

501 shall delete the consumer's personal information from its
502 records and direct any service providers to delete the
503 consumer's personal information from their records.

504 (c) A business or a service provider may not be required
505 to comply with a consumer's request to delete the consumer's
506 personal information if it is necessary for the business or
507 service provider to maintain the consumer's personal information
508 to do any of the following:

509 1. Complete the transaction for which the personal
510 information was collected.

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

513 3. Provide a good or service requested by the consumer, or
514 reasonably anticipated within the context of a business' ongoing
515 business relationship with the consumer, or otherwise perform a
516 contract between the business and the consumer.

517 4. Detect security incidents, protect against malicious,
518 deceptive, fraudulent, or illegal activity; or prosecute those
519 responsible for that activity.

520 5. Debug to identify and repair errors that impair
521 existing intended functionality.

522 6. Engage in public or peer-reviewed scientific,
523 historical, or statistical research in the public interest that
524 adheres to all other applicable ethics and privacy laws when the
525 business' deletion of the information is likely to render

526 impossible or seriously impair the achievement of such research,
527 if the consumer has provided informed consent.

528 7. Enable solely internal uses that are reasonably aligned
529 with the expectations of the consumer based on the consumer's
530 relationship with the business.

531 8. Comply with a legal obligation.

532 9. Otherwise internally use the consumer's personal
533 information in a lawful manner that is compatible with the
534 context in which the consumer provided the information.

535 (d) A consumer has the right to request a business that
536 maintains inaccurate personal information about the consumer to
537 correct the inaccurate personal information, taking into account
538 the nature of the personal information and the purposes of the
539 processing of the personal information. A business that receives
540 a verifiable consumer request to correct inaccurate personal
541 information shall use commercially reasonable efforts to correct
542 the inaccurate personal information as directed by the consumer.

543 (5) RIGHT TO REQUEST PERSONAL DATA SOLD OR SHARED.—

544 (a) A consumer has the right to request that a business
545 that sells or shares personal information about the consumer, or
546 discloses such information for a business purpose, to disclose
547 to the consumer:

548 1. The categories of personal information about the
549 consumer the business sold or shared.

550 2. The categories of third parties to which the personal

551 information about the consumer was sold or shared by category of
552 personal information for each category of third parties to which
553 the personal information was sold or shared.

554 3. The categories of personal information about the
555 consumer that the business disclosed for a business purpose.

556 (b) A business that sells or shares personal information
557 about consumers or discloses such information for a business
558 purpose shall disclose the information specified in paragraph
559 (a) to the consumer upon receipt of a verifiable consumer
560 request from the consumer.

561 (c) A third party may not sell or share personal
562 information about a consumer that has been sold or shared to the
563 third party by a business unless the consumer has received
564 explicit notice and is provided an opportunity to opt-out.

565 (6) RIGHT TO OPT-OUT OF THE SALE OR SHARING OF PERSONAL
566 INFORMATION TO THIRD PARTIES.—

567 (a) A consumer has the right at any time to direct a
568 business that sells or shares personal information about the
569 consumer to third parties to not sell or share the consumer's
570 personal information. This right may be referred to as the right
571 to opt-out.

572 (b) A business that sells or shares personal information
573 to third parties shall provide notice to consumers that this
574 information may be sold and shared and that consumers have the
575 right to opt-out of the sale or sharing of their personal

576 information.

577 (c) Notwithstanding paragraph (a), a business may not sell
578 or share the personal information of a consumer if the business
579 has actual knowledge that the consumer is not 16 years of age or
580 older, unless the consumer, in the case of consumers between 13
581 and 15 years of age, or the consumer's parent or guardian, in
582 the case of consumers who are 12 years of age or younger, has
583 affirmatively authorized the sale or sharing of the consumer's
584 personal information. A business that willfully disregards the
585 consumer's age is deemed to have had actual knowledge of the
586 consumer's age. This right may be referred to as the right to
587 opt-in.

588 (d) A business that has received direction from a consumer
589 prohibiting the sale or sharing of the consumer's personal
590 information or that has not received consent to sell or share a
591 minor consumer's personal information is prohibited from selling
592 or sharing the consumer's personal information after its receipt
593 of the consumer's direction, unless the consumer subsequently
594 provides express authorization for the sale or sharing of the
595 consumer's personal information.

596 (e) A business does not sell personal information when:

597 1. A consumer uses or directs the business to
598 intentionally disclose personal information or uses the business
599 to intentionally interact with a third party, provided the third
600 party does not also sell the personal information, unless that

601 disclosure would be consistent with the provisions of this
602 section. An intentional interaction occurs when the consumer
603 intends to interact with the third party, via one or more
604 deliberate interactions. Hovering over, muting, pausing, or
605 closing a given piece of content does not constitute a
606 consumer's intent to interact with a third party.

607 2. The business uses or shares an identifier for a
608 consumer who has opted out of the sale or sharing of the
609 consumer's personal information for the purposes of alerting
610 third parties that the consumer has opted out of the sale or
611 sharing of the consumer's personal information.

612 3. The business uses or shares with a service provider
613 personal information of a consumer that is necessary to perform
614 a business purpose if both of the following conditions are met:

615 a. The business has provided notice that the personal
616 information of the consumer is being used or shared in its terms
617 and conditions consistent with subsection (9).

618 b. The service provider does not further collect, sell,
619 share, or use the personal information of the consumer except as
620 necessary to perform the business purpose.

621 4. The business transfers to a third party the personal
622 information of a consumer as an asset that is part of a merger,
623 acquisition, bankruptcy, or other transaction in which the third
624 party assumes control of all or part of the business, provided
625 that information is used or shared consistently with subsections

626 (3) and (5). If a third party materially alters how it uses or
627 shares the personal information of a consumer in a manner that
628 is materially inconsistent with the promises made at the time of
629 collection, it shall provide prior notice of the new or changed
630 practice to the consumer. The notice must be sufficiently
631 prominent and robust to ensure that existing consumers can
632 easily exercise their choices consistently with this subsection.

633 (f) A business does not share personal information when:

634 1. A consumer uses or directs the business to
635 intentionally disclose personal information or intentionally
636 interact with one or more third parties.

637 2. The business uses or shares an identifier for a
638 consumer who has opted-out of sharing the consumer's personal
639 information for the purposes of alerting persons that the
640 consumer has opted-out of sharing the consumer's personal
641 information.

642 (7) DISCRIMINATION AGAINST CONSUMERS WHO EXERCISE THEIR
643 RIGHTS.—

644 (a)1. A business may not discriminate against a consumer
645 who exercised any of the consumer's rights under this section.
646 Discrimination under this subparagraph includes, but is not
647 limited to:

648 a. Denying goods or services to the consumer.

649 b. Charging different prices or rates for goods or
650 services, including through the use of discounts or other

651 benefits or imposing penalties.

652 c. Providing a different level or quality of goods or
653 services to the consumer.

654 d. Suggesting that the consumer will receive a different
655 price or rate for goods or services or a different level or
656 quality of goods or services.

657 2. This paragraph does not prohibit a business from
658 charging a consumer a different price or rate, or from providing
659 a different level or quality of goods or services to the
660 consumer, if that difference is reasonably related to the value
661 provided to the business by the consumer's data.

662 (b)1. A business may offer financial incentives, including
663 payments to consumers as compensation, for the collection, sale,
664 or deletion of personal information.

665 2. A business may offer a different price, rate, level, or
666 quality of goods or services to the consumer if the price or
667 difference is directly related to the value provided to the
668 business by the consumer's personal information.

669 3. A business that offers any financial incentives shall
670 notify consumers of the financial incentives.

671 4. A business may enter a consumer into a financial
672 incentive program only if the consumer gives the business prior
673 consent that clearly describes the material terms of the
674 financial incentive program. The consent may be revoked by the
675 consumer at any time.

676 5. A business may not use financial incentive practices
677 that are unjust, unreasonable, coercive, or usurious in nature.

678 (8) REQUESTS FOR PERSONAL INFORMATION.—

679 (a) To comply with this subsection, a business shall, in a
680 form that is reasonably accessible to consumers, make available
681 two or more methods for submitting verifiable consumer requests,
682 including, but not limited to, a toll-free number and, if the
683 business maintains an Internet website, a link on the homepage
684 of the website. The business may not require the consumer to
685 create an account with the business in order to make a
686 verifiable consumer request.

687 (b) The business shall deliver the information required or
688 act on the request in subsections (3) through (6) to a consumer
689 free of charge within 45 days after receiving a verifiable
690 consumer request. The response period may be extended once by 30
691 additional days when reasonably necessary, taking into account
692 the complexity of the consumer's requests, provided the business
693 informs the consumer of any such extension within the initial
694 45-day response period along with the reason for the extension.
695 The information must be delivered in a readily usable format
696 that allows the consumer to transmit the information from one
697 entity to another entity without hindrance.

698 (c) If a third party assumes control of all or part of a
699 business and acquires a consumer's personal information as part
700 of the transfer, and the third party materially alters how it

701 uses a consumer's personal information or shares the information
702 in a manner that is materially inconsistent with the promises
703 made at the time of collection, the third party must provide
704 prior notice of the new or changed practice to the customer. The
705 notice must be sufficiently prominent and robust to ensure that
706 existing consumers can easily exercise their choices.

707 (d) Any contract between a business and a service provider
708 must prohibit the service provider from:

709 1. Selling or sharing the personal information;

710 2. Retaining, using, or disclosing the personal
711 information for any purpose other than for the business purposes
712 specified in the contract for the business, including retaining,
713 using, or disclosing the personal information for a commercial
714 purpose other than the business purposes specified in the
715 contract with the business;

716 3. Retaining, using, or disclosing the information outside
717 of the direct business relationship between the service provider
718 and the business; or

719 4. Combining the personal information that the service
720 provider receives from or on behalf of the business with
721 personal information that it receives from or on behalf of
722 another person or entity or that the service provider collects
723 from its own interaction with the consumer, provided that the
724 service provider may combine personal information to perform any
725 business purpose.

726 (e) Any contract between a business and a third party must
727 prohibit the third party that receives a consumer's personal
728 information from the following:

729 1. Selling or sharing the personal information.

730 2. Retaining, using, or disclosing the personal
731 information for any purpose other than the specific purpose of
732 performing the services specified in the contract, including
733 retaining, using, or disclosing the personal information for a
734 commercial purpose other than providing the services specified
735 in the contract.

736 3. Retaining, using, or disclosing the personal
737 information for any purpose other than for the specific purpose
738 of performing the services specified in the contract, including
739 retaining, using, or disclosing the personal information for a
740 commercial purpose other than providing the services specified
741 in the contract.

742 4. Retaining, using, or disclosing the information outside
743 of the direct business relationship between the person and the
744 business.

745
746 The contract must include a certification made by the person or
747 entity receiving the personal information stating that the
748 person or entity understands and will comply with the
749 restrictions under this paragraph.

750 (f) Any contract between a business and a third party or

751 between a business and a service provider for receiving personal
752 information must include a provision that any contract between a
753 third party and any subcontractor or between a service provider
754 and any subcontractor must require the subcontractor to meet the
755 obligations of the third party or service provider with respect
756 to personal information.

757 (g) A third party or service provider or any subcontractor
758 thereof who violates any of the restrictions imposed upon it
759 under this section is liable for any violations. A business that
760 discloses personal information to a third party or service
761 provider in compliance with this section is not liable if the
762 person receiving the personal information uses it in violation
763 of the restrictions under this section, provided that at the
764 time of disclosing the personal information, the business does
765 not have actual knowledge or reason to believe that the person
766 intends to commit such a violation.

767 (9) FORM TO OPT-OUT OF SALE OR SHARING OF PERSONAL
768 INFORMATION.—

769 (a) A business shall, in a form that is reasonably
770 accessible to consumers:

771 1. Provide a clear and conspicuous link on the business's
772 Internet homepage, entitled "Do Not Sell or Share My Personal
773 Information," to an Internet webpage that enables a consumer, or
774 a person authorized by the consumer, to opt-out of the sale or
775 sharing of the consumer's personal information. A business may

776 not require a consumer to create an account in order to direct
777 the business not to sell the consumer's personal information.

778 2. Include a description of a consumer's rights along with
779 a separate link to the "Do Not Sell or Share My Personal
780 Information" Internet webpage in:

781 a. Its online privacy policy or policies.

782 b. Any Florida-specific consumer privacy rights.

783 3. Ensure that all individuals responsible for handling
784 consumer inquiries about the business's privacy practices or the
785 business's compliance with this section are informed of all
786 requirements in subsection (6) and this subsection and how to
787 direct consumers to exercise their rights subsection (6) and
788 this subsection.

789 4. For consumers who opt-out of the sale or sharing of
790 their personal information, refrain from selling or sharing
791 personal information collected by the business about the
792 consumer.

793 5. For consumers who opted-out of the sale or sharing of
794 their personal information, respect the consumer's decision to
795 opt-out for at least 12 months before requesting that the
796 consumer authorize the sale of the consumer's personal
797 information.

798 6. Use any personal information collected from the
799 consumer in connection with the submission of the consumer's
800 opt-out request solely for the purposes of complying with the

801 opt-out request.

802 (b) This subsection does not require a business to include
803 the required links and text on the homepage that the business
804 makes available to the public generally, if the business
805 maintains a separate and additional homepage that is dedicated
806 to Florida consumers and that includes the required links and
807 text, and the business takes reasonable steps to ensure that
808 Florida consumers are directed to the homepage for Florida
809 consumers and not the homepage made available to the public
810 generally.

811 (c) A consumer may authorize another person to opt-out of
812 the sale or sharing of the consumer's personal information on
813 the consumer's behalf, and a business shall comply with an opt-
814 out request received from a person authorized by the consumer to
815 act on the consumer's behalf, pursuant to rules adopted by the
816 department.

817 (10) EXCEPTIONS.—

818 (a) This section does not restrict any business' or third
819 party's ability to do any of the following:

820 1. Comply with federal, state, or local laws.

821 2. Comply with a civil, criminal, or regulatory inquiry,
822 investigation, subpoena, or summons by federal, state, or local
823 authorities.

824 3. Cooperate with law enforcement agencies concerning
825 conduct or activity that the business, service provider, or

826 third party reasonably and in good faith believes may violate
827 federal, state, or local law.

828 4. Exercise legal rights or privileges.

829 5. Collect, use, retain, sell, or disclose deidentified
830 personal information or aggregate consumer information. If a
831 business uses deidentified information, the business shall:

832 a. Implement technical safeguards that prohibit
833 reidentification of the consumer to whom the information may
834 pertain;

835 b. Implement business processes that specifically prohibit
836 reidentification of the information;

837 c. Implement business processes to prevent inadvertent
838 release of deidentified information; and

839 d. Not attempt to reidentify the information.

840 (b) This section does not apply to:

841 1. A business that collects or discloses its employees'
842 personal information, so long as the business is collecting or
843 disclosing such information within the scope of its role as an
844 employer.

845 2. Health information that is collected by a covered
846 entity or business associate governed by the privacy, security,
847 and breach notification rules issued by the United States
848 Department of Health and Human Services in 45 C.F.R. parts 160
849 and 164.

850 3. A covered entity governed by the privacy, security, and

851 breach notification rules issues by the United States Department
852 of Health and Human Services in 45 C.F.R. parts 160 and 164, to
853 the extent the provider or covered entity maintains patient
854 information in the same manner as medical information or
855 protected health information as described in subparagraph 2.

856 4. Information collected as part of a clinical trial
857 subject to the Federal Policy for the Protection of Human
858 Subjects pursuant to good clinical practice guidelines issued by
859 the International Council for Harmonisation of Technical
860 Requirements for Pharmaceuticals for Human Use or pursuant to
861 human subject protection requirements of the United States Food
862 and Drug Administration.

863 5. Sale or sharing of personal information to or from a
864 consumer reporting agency if that information is to be reported
865 in or used to generate a consumer report as defined by 15 U.S.C.
866 s. 1681(a), and if use of that information is limited by the
867 federal Fair Credit Reporting Act, 15 U.S.C. s. 1681 et seq.

868 6. Personal information collected, processed, sold, or
869 disclosed pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. s.
870 6801 et seq. and implementing regulations.

871 7. Personal information collected, processed, sold, or
872 disclosed pursuant to the federal Driver's Privacy Protection
873 Act of 1994, 18 U.S.C. s. 2721 et. seq.

874 8. Education information covered by the Family Educational
875 Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34 C.F.R. part

876 99.

877 9. Information collected as part of public or peer-
878 reviewed scientific or statistical research in the public
879 interest.

880 (11) CONTRACTS.—Any provision of a contract or agreement
881 of any kind that waives or limits in any way a consumer's rights
882 under this section, including, but not limited to, any right to
883 a remedy or means of enforcement, is deemed contrary to public
884 policy and is void and unenforceable. This section does not
885 prevent a consumer from declining to request information from a
886 business, declining to opt-out of a business's sale or sharing
887 of the consumer's personal information, or authorizing a
888 business to sell or share the consumer's personal information
889 after previously opting out. This subsection only applies to
890 contracts entered into after January 1, 2022.

891 (12) PRIVATE CAUSE OF ACTION.—A consumer whose
892 nonencrypted and nonredacted personal information or e-mail
893 address, in combination with a password or security question and
894 answer that would allow access to the account, is subject to an
895 unauthorized access and exfiltration, theft, or disclosure as a
896 result of a business' violation of the duty to implement and
897 maintain reasonable security procedures and practices
898 appropriate to the nature of the information to protect the
899 personal information may bring a civil action for any of the
900 following:

901 (a) Damages in an amount not less than \$100 and not
902 greater than \$750 per consumer per incident or actual damages,
903 whichever is greater.

904 (b) Injunctive or declaratory relief, as the court deems
905 proper.

906 (13) ENFORCEMENT AND IMPLEMENTATION.—

907 (a) If the department has reason to believe that any
908 business, service provider, or other person or entity is in
909 violation of this section and that proceedings would be in the
910 public interest, the department may bring an action against such
911 business, service provider, or other person or entity and may
912 seek a civil penalty of not more than \$2,500 for each
913 unintentional violation or \$7,500 for each intentional
914 violation. Such fines may be tripled if the violation involves a
915 consumer who is 16 years of age or younger.

916 (b) The department may adopt rules to implement this
917 section.

918 (c) A business may be found to be in violation of this
919 section if it fails to cure any alleged violation within 30 days
920 after being notified in writing by the department of the alleged
921 noncompliance.

922 Section 3. This act shall take effect January 1, 2022.