

By Senator Davis

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A bill to be entitled

An act relating to pricing based on collection of consumer information; providing a short title; creating s. 501.003, F.S.; providing definitions; declaring unlawful any act or practice of surveillance pricing; providing applicability; providing exceptions; requiring certain individuals who advertise, promote, label, or publish a statement, display, image, offer, or announcement of surveillance pricing to include a specified clear and conspicuous disclosure with such statement, display, image, offer, or announcement; providing penalties; providing construction; prohibiting a person from requiring consumers to waive certain rights or refusing a consumer access to goods and services under certain conditions; declaring any such waiver void; providing an effective date.

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

Section 1. This act may be cited as the "Florida Consumer Privacy Act."

Section 2. Section 501.003, Florida Statutes, is created to read:

501.003 Florida Consumer Privacy Act.—

(1) As used in this section, the term:

(a) "Collects," "collected," or "collection" means buying, renting, gathering, obtaining, receiving, or accessing any personal information relating to a consumer by any means. The

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30 term includes receiving information from the consumer, either
31 actively or passively, or by observing the consumer's behavior.

32 (b) "Consumer" means an individual who obtains, maintains,
33 uses, purchases, leases, or receives goods, services, real
34 property, or personal property or the representative of such
35 individual.

36 (c) "Covered information" means aggregate personal
37 information.

38 (d) "Personal information" means information that
39 identifies, relates to, describes, is reasonably capable of
40 being associated with, or could reasonably be linked, directly
41 or indirectly, with a particular consumer or household.

42 1. The term includes, but is not limited to, the following
43 if it identifies, relates to, describes, is reasonably capable
44 of being associated with, or could be reasonably linked,
45 directly or indirectly, with a particular consumer or household:

46 a. An identifier such as a real name, an alias, a postal
47 address, a unique personal identifier, an online identifier, an
48 Internet Protocol address, an e-mail address, an account name, a
49 username, a social security number, a driver license number, a
50 passport number, a customer identifier, an advertising
51 identifier, or other similar identifier.

52 b. Commercial information, including records of personal
53 property, products or services purchased, obtained, or
54 considered, or other purchasing or consuming histories or
55 tendencies.

56 c. Biometric data, health information, or genetic
57 information.

58 d. Internet or other electronic network activity

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59 information, including, but not limited to, browsing history,
60 search history, cookies, and information regarding a consumer's
61 interaction with a website, an application, a product, or an
62 advertisement, whether obtained directly or through a third
63 party.

64 e. Geolocation data, including, but not limited to, data
65 tracked from a global positioning system or environmental
66 information about that location, such as a fire or storm that
67 may indicate heightened consumer needs based on an emergency
68 situation, not including cost differences based on objective and
69 uniformly applied shipping costs, or any applicable taxes or
70 tariffs for various locations.

71 f. Audio, electronic, visual, thermal, olfactory, or
72 similar information.

73 g. Professional or employment-related information.

74 h. Hardware information or hardware state of the online
75 device, such as battery life, the number of wireless
76 connections, device age, or similar data, including increasing
77 the price based on the payment information, such as the use of a
78 specific debit or credit card, virtual wallet, bank transaction,
79 such as a wire transfer or automated clearing house, or other
80 payment, unless the price difference is based on a specific
81 objective and uniformly applied transaction fee, which can vary
82 based on the costs associated with the transaction. This sub-
83 subparagraph does not prohibit the generation of a price offered
84 to a consumer based on the hardware or hardware state of the
85 online device for repairs or maintenance of the online device or
86 for calculating a trade-in value of the online device.

87 i. Inferences drawn from or actual data collected about any

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88 of the information identified in this subparagraph to create a
89 profile about a consumer reflecting the consumer's preferences,
90 characteristics, psychological trends, predispositions,
91 behavior, attitudes, intelligence, abilities, and aptitudes.

92 2. The term does not include:

93 a. Publicly available information or lawfully obtained,
94 truthful information that is a matter of public concern.

95 b. Consumer information that is deidentified or aggregate
96 consumer information, such as information used for advertising
97 or other targeted marketing, but only if the pricing does not
98 vary between consumers.

99 (e) "Surveillance pricing" means offering or setting a
100 personalized price for a good or service for a specific consumer
101 or group of consumers based, in whole or in part, on covered
102 information collected through any targeted pricing technologies,
103 such as electronic or any other surveillance method. The term
104 includes the use of technological methods, systems, or tools,
105 including sensors, cameras, device tracking, biometric
106 monitoring, cookies, or other forms of observation or data
107 collection that are capable of gathering covered information
108 about consumer behavior, characteristics, location, or other
109 personal attributes, whether in physical or digital
110 environments, including external or virtual attributes such as
111 user hardware and payment methods. Surveillance pricing also
112 includes dynamic pricing whereby a party engages in price fixing
113 to adjust product prices in real time based on market demands,
114 competitor prices, inventory levels, customer behavior, or other
115 factors a person may use to determine or set prices for a
116 product.

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117 (2) (a) Notwithstanding any law to the contrary, a person
118 may not engage in any act of surveillance pricing to charge,
119 offer, or accept payment of an increased price for goods or
120 services.

121 (b) This subsection does not apply to a refusal to extend
122 credit on specific terms, such as credit cards, personal loans,
123 and mortgages, or a refusal to enter into a transaction with a
124 specific consumer, based primarily on information contained in a
125 consumer report in accordance with the federal Fair Credit
126 Reporting Act.

127 (3) (a) A person does not engage in surveillance pricing in
128 violation of paragraph (2) (a) if:

129 1. The difference in price is based solely on objective
130 costs associated with providing the good or service to different
131 consumers, such as zip codes, which can cause shipping or tax
132 cost variations.

133 2. A discounted price is offered based on publicly
134 disclosed eligibility criteria, including, but not limited to,
135 signing up for a mailing list, registering for promotional
136 communications, or participating in a promotional event, or the
137 use of or access to forms of payment, such as credit or debit
138 cards, online wallets, or other accepted forms of payment.

139 3. A discounted price is offered to members of a broadly
140 defined group, including, but not limited to, teachers,
141 veterans, senior citizens, or students, based on publicly
142 disclosed eligibility criteria.

143 4. A discounted price is offered through a loyalty,
144 membership, or rewards program in which consumers affirmatively
145 enroll.

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146 5. The pricing analysis is being conducted by an insurer
147 complying with the Florida Insurance Code, or a credit analyst
148 in compliance with the federal Fair Credit Reporting Act.

149 (b) The discounted price offered in subparagraph (a)2.,
150 subparagraph (a)3., or subparagraph (a)4. must comply with the
151 following:

152 1. The eligibility criteria, available discounts, and any
153 conditions for receiving or earning the discount or reward shall
154 be clearly and conspicuously disclosed before any covered
155 information is collected.

156 2. The discount or reward shall be offered uniformly to all
157 consumers who meet the disclosed eligibility criteria.

158 (c) Any covered information collected pursuant to this
159 subsection shall be used solely for the purpose of offering or
160 administering the applicable discount, cost-based pricing, or
161 loyalty program and may not be used for any other purpose,
162 including profiling, targeted advertising, or individualized
163 price setting.

164 (4) A person who knowingly advertises, promotes, labels, or
165 publishes a statement, display, image, offer, or announcement of
166 surveillance pricing shall include with such statement, display,
167 image, offer, or announcement a clear and conspicuous disclosure
168 that states:

169
170 THIS PRICE WAS SET BY A SURVEILLANCE METHOD USING YOUR PERSONAL
171 CONSUMER INFORMATION.

172
173 (5) (a) The Attorney General or any state attorney may bring
174 a civil action on behalf of the state to seek the imposition of

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175 civil penalties against any person who violates this section. A
176 civil penalty not to exceed \$1,500 shall be imposed for each
177 violation, with each violation constituting a separate violation
178 with respect to each consumer, worker, or transaction involved.
179 Attorney fees and costs shall be awarded to the prevailing
180 party.

181 (b) In addition to any other remedy available at law or in
182 equity, a person aggrieved by a violation of this section may
183 bring a civil action on behalf of a person or a group of
184 similarly situated persons to restrain further violations and to
185 recover damages, reasonable attorney fees, and costs, including
186 the greater of:

187 1. The amount of actual damages sustained, including
188 prejudgment interest of 8 percent per year from the date the
189 claim under this section accrued;

190 2. A civil penalty not to exceed \$1,500 for each violation,
191 with each violation constituting a separate violation with
192 respect to each consumer, worker, or transaction involved; or

193 3. Three times the amount of actual damages sustained, if
194 it is established by clear and convincing evidence that such
195 person violating this section engaged in bad faith conduct or
196 intentionally violated this section.

197 (c) A person who violates this section shall be required to
198 disgorge all revenues earned thereby. A prevailing plaintiff
199 shall be awarded reasonable attorney fees and costs. A court may
200 also award injunctive or declaratory relief as necessary.

201 (d) This subsection is cumulative to other existing
202 remedies and penalties and does not limit other remedies and
203 penalties that are available under the laws of this state or any

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204 applicable federal or local law.

205 (e) This section, including the enforcement authority
206 granted to the Attorney General and the state attorneys of this
207 state, does not preempt or otherwise affect any other right,
208 claim, remedy, presumption, or defense available at law or in
209 equity.

210 (6) A person may not require a consumer to waive his or her
211 rights under this section or any other rights under law or
212 refuse a consumer access to goods or services for enforcing the
213 protections under this section. Any such waiver, including, but
214 not limited to, any mandatory dispute resolution provisions or
215 contrary terms of use or service, is contrary to public policy
216 and is void.

217 Section 3. This act shall take effect July 1, 2026.