

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. The business that collects personal information from  
378 consumers under this section.

379 2. A service provider to whom the business discloses  
380 personal information about consumers for a business purpose  
381 pursuant to a 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 that can be used to identify a particular consumer,  
391 family, or device that is linked to a consumer or family. As  
392 used in this paragraph, the term "family" means a custodial  
393 parent or guardian and any minor children of whom the parent or  
394 guardian has custody, or a household.

395 (x) "Verifiable consumer request" means a request that is  
396 made by a consumer, by a consumer on behalf of the consumer's  
397 minor child, or by a natural person or a person authorized by  
398 the consumer to act on the consumer's behalf, and that the  
399 business can reasonably verify pursuant to rules adopted by the  
400 department to be the consumer about whom the business has



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

406 (2) PRIVACY POLICY FOR PERSONAL INFORMATION.—

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

412 1. Any Florida-specific consumer privacy rights.

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

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

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

426 5. The right to opt-out of the sale or sharing to third  
427 parties and the ability to request deletion or correction of  
428 certain personal information.

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

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

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

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

445 (f) A business shall provide and follow a retention  
446 schedule that prohibits the use and retention of personal  
447 information after satisfaction of the initial purpose for  
448 collecting or obtaining such information, or after the duration  
449 of a contract, or 1 year after the consumer's last interaction  
450 with the business, whichever occurs first. This paragraph does

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

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

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

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

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

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

476        2. The categories and sources from which it collected the  
477 consumer's personal information.

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

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

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

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

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

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

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

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

500        (b) A business that receives a verifiable consumer request

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

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

511 1. Complete the transaction for which the personal  
512 information was collected.

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

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

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

522 5. Debug to identify and repair errors that impair  
523 existing intended functionality.

524 6. Engage in public or peer-reviewed scientific,  
525 historical, or statistical research in the public interest that

526 adheres to all other applicable ethics and privacy laws when the  
527 business' deletion of the information is likely to render  
528 impossible or seriously impair the achievement of such research,  
529 if the consumer has provided informed consent.

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

533 8. Comply with a legal obligation.

534 9. As reasonably needed to protect the business's  
535 interests against existing disputes, legal action, or  
536 governmental investigations.

537 10. Otherwise internally use the consumer's personal  
538 information in a lawful manner that is compatible with the  
539 context in which the consumer provided the information.

540 (d) A consumer has the right to make a request to correct  
541 inaccurate personal information to a business that maintains  
542 inaccurate personal information about the consumer, while taking  
543 into account the nature of the personal information and the  
544 purposes of the processing of the personal information. A  
545 business that receives a verifiable consumer request to correct  
546 inaccurate personal information shall use commercially  
547 reasonable efforts to correct the inaccurate personal  
548 information as directed by the consumer. If a business maintains  
549 a self-service mechanism to allow a consumer to correct certain  
550 personal information, the business may require the consumer to

551 correct their own personal information through such mechanism.

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

553 (a) A consumer has the right to request that a business  
554 that sells or shares personal information about the consumer, or  
555 discloses such information for a business purpose, to disclose  
556 to the consumer:

557 1. The categories of personal information about the  
558 consumer the business sold or shared.

559 2. The categories of third parties to which the personal  
560 information about the consumer was sold or shared by category of  
561 personal information for each category of third parties to which  
562 the personal information was sold or shared.

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

565 (b) A business that sells or shares personal information  
566 about consumers or discloses such information for a business  
567 purpose shall disclose the information specified in paragraph  
568 (a) to the consumer upon receipt of a verifiable consumer  
569 request from the consumer.

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

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

576        (a) A consumer has the right at any time to direct a  
577 business that sells or shares personal information about the  
578 consumer to third parties to not sell or share the consumer's  
579 personal information. This right may be referred to as the right  
580 to opt-out.

581        (b) A business that sells or shares personal information  
582 to third parties shall provide notice to consumers that this  
583 information may be sold and shared and that consumers have the  
584 right to opt-out of the sale or sharing of their personal  
585 information.

586        (c) Notwithstanding paragraph (a), a business may not sell  
587 or share the personal information of a consumer if the business  
588 has actual knowledge that the consumer is not 16 years of age or  
589 older, unless the consumer, in the case of consumers between 13  
590 and 15 years of age, or the consumer's parent or guardian, in  
591 the case of consumers who are 12 years of age or younger, has  
592 affirmatively authorized the sale or sharing of the consumer's  
593 personal information. A business that willfully disregards the  
594 consumer's age is deemed to have had actual knowledge of the  
595 consumer's age. This right may be referred to as the right to  
596 opt-in.

597        (d) A business that has received direction from a consumer  
598 prohibiting the sale or sharing of the consumer's personal  
599 information or that has not received consent to sell or share a  
600 minor consumer's personal information is prohibited from selling



601 or sharing the consumer's personal information after its receipt  
602 of the consumer's direction, unless the consumer subsequently  
603 provides express authorization for the sale or sharing of the  
604 consumer's personal information.

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

606 1. A consumer uses or directs the business to  
607 intentionally disclose personal information or uses the business  
608 to intentionally interact with a third party. An intentional  
609 interaction occurs when the consumer intends to interact with  
610 the third party, via one or more deliberate interactions.

611 Hovering over, muting, pausing, or closing a given piece of  
612 content does not constitute a consumer's intent to interact with  
613 a third party.

614 2. The business uses or shares an identifier for a  
615 consumer who has opted out of the sale or sharing of the  
616 consumer's personal information for the purposes of alerting  
617 third parties that the consumer has opted out of the sale or  
618 sharing of the consumer's personal information.

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

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

625 b. The service provider does not further collect, sell,

626 share, or use the personal information of the consumer except as  
627 necessary to perform the business purpose.

628 4. The business transfers to a third party the personal  
629 information of a consumer as an asset that is part of a merger,  
630 acquisition, bankruptcy, or other transaction in which the third  
631 party assumes control of all or part of the business, provided  
632 that information is used or shared consistently with subsections  
633 (3) and (5). If a third party materially alters how it uses or  
634 shares the personal information of a consumer in a manner that  
635 is materially inconsistent with the promises made at the time of  
636 collection, it shall provide prior notice of the new or changed  
637 practice to the consumer. The notice must be sufficiently  
638 prominent and robust to ensure that existing consumers can  
639 easily exercise their choices consistently with this subsection.

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

641 1. A consumer uses or directs the business to  
642 intentionally disclose personal information or intentionally  
643 interact with one or more third parties.

644 2. The business uses or shares an identifier for a  
645 consumer who has opted-out of sharing the consumer's personal  
646 information for the purposes of alerting persons that the  
647 consumer has opted-out of sharing the consumer's personal  
648 information.

649 (7) DISCRIMINATION AGAINST CONSUMERS WHO EXERCISE THEIR  
650 RIGHTS.-

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

655 a. Denying goods or services to the consumer.

656 b. Charging different prices or rates for goods or  
657 services, including through the use of discounts or other  
658 benefits or imposing penalties.

659 c. Providing a different level or quality of goods or  
660 services to the consumer.

661 d. Suggesting that the consumer will receive a different  
662 price or rate for goods or services or a different level or  
663 quality of goods or services.

664 2. This paragraph does not prohibit a business from  
665 charging a consumer a different price or rate, or from providing  
666 a different level or quality of goods or services to the  
667 consumer, if that difference is reasonably related to the value  
668 provided to the business by the consumer's data.

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

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

676 3. A business that offers any financial incentives shall  
677 notify consumers of the financial incentives.

678 4. A business may enter a consumer into a financial  
679 incentive program only if the consumer gives the business prior  
680 consent that clearly describes the material terms of the  
681 financial incentive program. The consent may be revoked by the  
682 consumer at any time.

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

685 (8) REQUESTS FOR PERSONAL INFORMATION.—

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

694 (b) The business shall deliver the information required or  
695 act on the request in subsections (3) through (5) to a consumer  
696 free of charge within 45 days after receiving a verifiable  
697 consumer request. The response period may be extended once by 30  
698 additional days when reasonably necessary, while taking into  
699 account the complexity of the consumer's requests, provided the  
700 business informs the consumer of any such extension within the

701 initial 45-day response period along with the reason for the  
702 extension. The information must be delivered in a readily usable  
703 format that allows the consumer to transmit the information from  
704 one entity to another entity without hindrance.

705 (c) If a third party assumes control of all or part of a  
706 business, acquires a consumer's personal information as part of  
707 the transfer, and the third party materially alters how it uses  
708 a consumer's personal information or shares the information in a  
709 manner that is materially inconsistent with the promises made at  
710 the time of collection, the third party must provide prior  
711 notice of the new or changed practice to the consumer. The  
712 notice must be sufficiently prominent and robust to ensure that  
713 existing consumers can easily exercise their rights under  
714 subsections (3) through (6).

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

717 1. Selling or sharing the personal information;  
718 2. Retaining, using, or disclosing the personal  
719 information for any purpose, commercial or otherwise, other than  
720 for the business purposes specified in the contract with the  
721 business; or

722 3. Combining the personal information that the service  
723 provider receives from or on behalf of the business with  
724 personal information that it receives from or on behalf of  
725 another person or entity or that the service provider collects

726 from its own interaction with the consumer, provided that the  
727 service provider may combine personal information to perform any  
728 business purpose.

729 (e) A third party that receives a consumer's personal  
730 information is prohibited from:

731 1. Selling or sharing the personal information.

732 2. Retaining, using, or disclosing the information outside  
733 of the direct business relationship between the person and the  
734 business.

735 (f) A third party or a service provider must require any  
736 subcontractor to meet the same obligations of such third party  
737 or service provider with respect to personal information.

738 (g) A third party or service provider or any subcontractor  
739 thereof who violates any of the restrictions imposed upon it  
740 under this section is liable for any violations. A business that  
741 discloses personal information to a third party or service  
742 provider in compliance with this section is not liable if the  
743 person receiving the personal information uses it in violation  
744 of the restrictions under this section, provided that at the  
745 time of disclosing the personal information, the business does  
746 not have actual knowledge or reason to believe that the person  
747 intends to commit such a violation.

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

750 (a) A business shall, in a form that is reasonably

751 accessible to consumers:

752 1. Provide a clear and conspicuous link on the business's  
753 Internet homepage, entitled "Do Not Sell or Share My Personal  
754 Information," to an Internet webpage that enables a consumer, or  
755 a person authorized by the consumer, to opt-out of the sale or  
756 sharing of the consumer's personal information. A business may  
757 not require a consumer to create an account in order to direct  
758 the business not to sell the consumer's personal information.

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

762 a. Its online privacy policy or policies.

763 b. Any Florida-specific consumer privacy rights.

764 3. Ensure that all individuals responsible for handling  
765 consumer inquiries about the business's privacy practices or the  
766 business's compliance with this section are informed of all  
767 requirements in subsection (6) and this subsection and how to  
768 direct consumers to exercise their rights subsection (6) and  
769 this subsection.

770 4. For consumers who opt-out of the sale or sharing of  
771 their personal information, refrain from selling or sharing  
772 personal information collected by the business about the  
773 consumer.

774 5. For consumers who opted-out of the sale or sharing of  
775 their personal information, respect the consumer's decision to

776 opt-out for at least 12 months before requesting that the  
777 consumer authorize the sale of the consumer's personal  
778 information.

779 6. Use any personal information collected from the  
780 consumer in connection with the submission of the consumer's  
781 opt-out request solely for the purposes of complying with the  
782 opt-out request.

783 (b) This subsection does not require a business to include  
784 the required links and text on the homepage that the business  
785 makes available to the public generally, if the business  
786 maintains a separate and additional homepage that is dedicated  
787 to Florida consumers and that includes the required links and  
788 text, and the business takes reasonable steps to ensure that  
789 Florida consumers are directed to the homepage for Florida  
790 consumers and not the homepage made available to the public  
791 generally.

792 (c) A consumer may authorize another person to opt-out of  
793 the sale or sharing of the consumer's personal information on  
794 the consumer's behalf, and a business shall comply with an opt-  
795 out request received from a person authorized by the consumer to  
796 act on the consumer's behalf, pursuant to rules adopted by the  
797 department.

798 (10) EXCEPTIONS.—

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



- 801       1. Comply with federal, state, or local laws.
- 802       2. Comply with a civil, criminal, or regulatory inquiry,  
803 investigation, subpoena, or summons by federal, state, or local  
804 authorities.
- 805       3. Cooperate with law enforcement agencies concerning  
806 conduct or activity that the business, service provider, or  
807 third party reasonably and in good faith believes may violate  
808 federal, state, or local law.
- 809       4. Exercise legal rights or privileges.
- 810       5. Collect, use, retain, sell, or disclose deidentified  
811 personal information or aggregate consumer information. If a  
812 business uses deidentified information, the business shall:
- 813       a. Implement technical safeguards that prohibit  
814 reidentification of the consumer to whom the information may  
815 pertain;
- 816       b. Implement business processes that specifically prohibit  
817 reidentification of the information;
- 818       c. Implement business processes to prevent inadvertent  
819 release of deidentified information; and
- 820       d. Not attempt to reidentify the information.
- 821       (b) This section does not apply to:
- 822       1. A business that collects or discloses the personal  
823 information of its employees, applicants, interns, or  
824 volunteers, so long as the business is collecting or disclosing  
825 such information within the scope of its role as an employer.

826        2. Health information that is collected by a covered  
827 entity or business associate governed by the privacy, security,  
828 and breach notification rules issued by the United States  
829 Department of Health and Human Services in 45 C.F.R. parts 160  
830 and 164.

831        3. A covered entity or business associate governed by the  
832 privacy, security, and breach notification rules issued by the  
833 United States Department of Health and Human Services in 45  
834 C.F.R. parts 160 and 164, to the extent the covered entity or  
835 business associate maintains patient information in the same  
836 manner as medical information or protected health information as  
837 described in subparagraph 2.

838        4. Information collected as part of a clinical trial  
839 subject to the Federal Policy for the Protection of Human  
840 Subjects pursuant to good clinical practice guidelines issued by  
841 the International Council for Harmonisation of Technical  
842 Requirements for Pharmaceuticals for Human Use or pursuant to  
843 human subject protection requirements of the United States Food  
844 and Drug Administration.

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

850        6. Personal information collected, processed, sold, or

851 disclosed pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. s.  
852 6801 et seq. and implementing regulations.

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

856 8. Education information covered by the Family Educational  
857 Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34 C.F.R. part  
858 99.

859 9. Information collected as part of public or peer-  
860 reviewed scientific or statistical research in the public  
861 interest.

862 (11) CONTRACTS.—Any provision of a contract or agreement  
863 of any kind that waives or limits in any way a consumer's rights  
864 under this section, including, but not limited to, any right to  
865 a remedy or means of enforcement, is deemed contrary to public  
866 policy and is void and unenforceable. This section does not  
867 prevent a consumer from declining to request information from a  
868 business, declining to opt-out of a business's sale or sharing  
869 of the consumer's personal information, or authorizing a  
870 business to sell or share the consumer's personal information  
871 after previously opting out. This subsection only applies to  
872 contracts entered into after January 1, 2022.

873 (12) PRIVATE CAUSE OF ACTION.—A consumer whose  
874 nonencrypted and nonredacted personal information or e-mail  
875 address, in combination with a password or security question and

876 answer that would allow access to the account, is subject to an  
877 unauthorized access and exfiltration, theft, or disclosure as a  
878 result of a business' violation of the duty to implement and  
879 maintain reasonable security procedures and practices  
880 appropriate to the nature of the information to protect the  
881 personal information may bring a civil action for any of the  
882 following:

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

886 (b) Injunctive or declaratory relief, as the court deems  
887 proper.

888 (13) ENFORCEMENT AND IMPLEMENTATION.-

889 (a) If the department has reason to believe that any  
890 business, service provider, or other person or entity is in  
891 violation of this section and that proceedings would be in the  
892 public interest, the department may bring an action against such  
893 business, service provider, or other person or entity and may  
894 seek a civil penalty of not more than \$2,500 for each  
895 unintentional violation or \$7,500 for each intentional  
896 violation. Such fines may be tripled if the violation involves a  
897 consumer who is 16 years of age or younger.

898 (b) The department may adopt rules to implement this  
899 section.

900 (c) A business may be found to be in violation of this

901 section if it fails to cure any alleged violation within 30 days  
902 after being notified in writing by the department of the alleged  
903 noncompliance.

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