

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  
49 for civil actions and a private right of action for  
50 consumers under certain circumstances; providing civil

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

57 Be It Enacted by the Legislature of the State of Florida:  
 58

59 Section 1. Paragraph (g) of subsection (1) of section  
 60 501.171, Florida Statutes, is amended to read:

61 501.171 Security of confidential personal information.—

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

63 (g)1. "Personal information" means either of the  
 64 following:

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

68 (I) A social security number;

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

73 (III) A financial account number or credit or debit card  
 74 number, in combination with any required security code, access  
 75 code, or password that is necessary to permit access to an

76 individual's financial account;

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

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

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

86 c. An individual's biometric information as defined in s.  
87 501.173(1).

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

95 Section 2. Section 501.173, Florida Statutes, is created  
96 to read:

97 501.173 Consumer data privacy.-

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

99 (a) "Aggregate consumer information" means information  
100 that relates to a group or category of consumers, from which the

101 identity of an individual consumer has been removed and is not  
102 reasonably capable of being directly or indirectly associated or  
103 linked with, any consumer or household, including via a device.  
104 The term does not include one or more individual consumer  
105 records that have been deidentified.

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

118 (c) "Business" means:

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

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

124 b. Does business in this state;

125 c. Collects personal information about consumers, or is

126 the entity on behalf of which such information is collected;

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

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

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

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

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

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

143 a. "Control" means:

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

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

150 (III) The power to exercise a controlling influence over

151 the management of a company.

152 b. "Common branding" means a shared name, servicemark, or  
153 trademark.

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

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

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

170 3. Debugging to identify and repair errors that impair  
171 existing intended functionality.

172 4. Performing services on behalf of the business or  
173 service provider, including maintaining or servicing accounts,  
174 providing customer service, processing or fulfilling orders and  
175 transactions, verifying customer information, processing

176 payments, providing financing, providing analytic services, or  
177 providing similar services on behalf of the business or service  
178 provider.

179 5. Undertaking internal research for technological  
180 development and demonstration.

181 6. Undertaking activities to verify or maintain the  
182 quality or safety of a service or device that is owned,  
183 manufactured, manufactured for, or controlled by the business,  
184 and to improve, upgrade, or enhance the service or device that  
185 is owned, manufactured, manufactured for, or controlled by the  
186 business.

187 (e) "Collect" means to buy, rent, gather, obtain, receive,  
188 or access any personal information pertaining to a consumer by  
189 any means. The term includes, but is not limited to, actively or  
190 passively receiving information from the consumer or by  
191 observing the consumer's behavior.

192 (f) "Commercial purposes" means to advance the commercial  
193 or economic interests of a person, such as inducing another  
194 person to buy, rent, lease, join, subscribe to, provide, or  
195 exchange products, goods, property, information, or services, or  
196 directly or indirectly enabling or effecting a commercial  
197 transaction.

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



201        1. In this state for other than a temporary or transitory  
 202 purpose; or

203        2. Domiciled in this state but resides outside this state  
 204 for a temporary or transitory purpose.

205        (h) "Deidentified" means information that does not  
 206 reasonably identify, relate to, or describe a particular  
 207 consumer, or is not reasonably capable of being directly or  
 208 indirectly associated or linked with a particular consumer,  
 209 provided that a business that uses deidentified information:

210            1. Implements technical safeguards that prohibit  
 211 reidentification of the consumer to whom the information may  
 212 pertain.

213            2. Implements business processes that specifically  
 214 prohibit reidentification of the information.

215            3. Implements business processes to prevent inadvertent  
 216 release of deidentified information.

217            4. Does not attempt to reidentify the information.

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

219            (j) "Health insurance information" means a consumer's  
 220 insurance policy number or subscriber identification number, or  
 221 any unique identifier used by a health insurer to identify the  
 222 consumer, or any information in the consumer's application and  
 223 claims history, including any appeals records, if the  
 224 information is reasonably capable of being directly or  
 225 indirectly associated or linked with a consumer or household,

226 including via a device, by a business or service provider.

227 (k) "Homepage" means the introductory page of an Internet  
228 website and any Internet webpage where personal information is  
229 collected. In the case of a mobile application, the homepage is  
230 the application's platform page or download page, a link within  
231 the application, such as the "About" or "Information"  
232 application configurations, or settings page, and any other  
233 location that allows consumers to review the notice required by  
234 subsection (9), including, but not limited to, before  
235 downloading the application.

236 (l) "Person" means an individual, proprietorship, firm,  
237 partnership, joint venture, syndicate, business trust, company,  
238 corporation, limited liability company, association, committee,  
239 and any other organization or group of persons acting in  
240 concert.

241 (m) "Personal information" means information that  
242 identifies, relates to, or describes a particular consumer or  
243 household, or is reasonably capable of being directly or  
244 indirectly associated or linked with, a particular consumer or  
245 household.

246 1. The term includes, but is not limited to, the  
247 following:

248 a. Identifiers such as a real name, alias, postal address,  
249 unique identifier, online identifier, internet protocol address,  
250 email address, account name, social security number, driver

251 license number, passport number, or other similar identifiers.

252 b. Information that identifies, relates to, or describes,  
253 or could be associated with, a particular individual, including,  
254 but not limited to, a name, signature, social security number,  
255 physical characteristics or description, address, telephone  
256 number, passport number, driver license or state identification  
257 card number, insurance policy number, education, employment,  
258 employment history, bank account number, credit card number,  
259 debit card number, or any other financial information, medical  
260 information, or health insurance information.

261 c. Characteristics of protected classifications under  
262 state or federal law.

263 d. Commercial information, including records of personal  
264 property, products or services purchased, obtained, or  
265 considered, or other purchasing or consuming histories or  
266 tendencies.

267 e. Biometric information.

268 f. Internet or other electronic network activity  
269 information, including, but not limited to, browsing history,  
270 search history, and information regarding a consumer's  
271 interaction with an Internet website, application, or  
272 advertisement.

273 g. Geolocation data.

274 h. Audio, electronic, visual, thermal, olfactory, or  
275 similar information.

276 i. Professional or employment-related information.

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

281 k. Inferences drawn from any of the information identified  
282 in this paragraph to create a profile about a consumer  
283 reflecting the consumer's preferences, characteristics,  
284 psychological trends, predispositions, behavior, attitudes,  
285 intelligence, abilities, and aptitudes.

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

287 a. Publicly and lawfully available.

288 b. Deidentified or aggregate consumer information.

289 (n) "Probabilistic identifier" means the identification of  
290 a consumer or a device to a degree of certainty of more probable  
291 than not based on any categories of personal information  
292 included in, or similar to, the categories listed under  
293 paragraph (m).

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

297 (p) "Pseudonymize" means the processing of personal  
298 information in a manner that renders the personal information no  
299 longer attributable to a specific consumer without the use of  
300 additional information, provided that the additional information

301 is kept separately and is subject to technical and  
302 organizational measures to ensure that the personal information  
303 is not attributed to an identified or identifiable consumer.

304 (q) "Publicly and lawfully available" means information  
305 reasonably believed to be made available to the public in a  
306 lawful manner and without legal restrictions:

- 307 1. From federal, state, or local government records.  
308 2. By a widely distributed media source.  
309 3. By the consumer or by someone to whom the consumer  
310 disclosed the information unless the consumer has purposely and  
311 effectively restricted the information to a certain audience on  
312 a private account.

313  
314 The term does not include biometric information collected by a  
315 business about a consumer without the consumer's consent.

316 (r) "Research" means scientific, systematic study and  
317 observation, including, but not limited to, basic research or  
318 applied research that is in the public interest and that adheres  
319 to all other applicable ethics and privacy laws or studies  
320 conducted in the public interest in the area of public health.

321 Research with personal information that may have been collected  
322 from a consumer in the course of the consumer's interactions  
323 with a business's service or device for other purposes must be:

- 324 1. Compatible with the business purpose for which the  
325 personal information was collected.

326        2. Subsequently pseudonymized and deidentified, or  
327 deidentified and in the aggregate, such that the information  
328 does not reasonably identify, relate to, or describe, or is not  
329 capable of being directly or indirectly associated or linked  
330 with, a particular consumer.

331        3. Made subject to technical safeguards that prohibit  
332 reidentification of the consumer to whom the information may  
333 pertain.

334        4. Subject to business processes that specifically  
335 prohibit reidentification of the information.

336        5. Made subject to business processes to prevent  
337 inadvertent release of deidentified information.

338        6. Protected from any reidentification attempts.

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

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

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

351 consideration.

352 (t) "Service" means work or labor furnished in connection  
353 with the sale or repair of goods.

354 (u) "Service provider" means a sole proprietorship,  
355 partnership, limited liability company, corporation,  
356 association, or other legal entity that is organized or operated  
357 for the profit or financial benefit of its shareholders or other  
358 owners, that processes information on behalf of a business and  
359 to which the business discloses a consumer's personal  
360 information for a business purpose pursuant to a written  
361 contract, provided that the contract prohibits the entity  
362 receiving the information from retaining, using, or disclosing  
363 the personal information for any purpose other than for the  
364 specific purpose of performing the services specified in the  
365 contract for the business, or as otherwise permitted by this  
366 section, including retaining, using, or disclosing the personal  
367 information for a commercial purpose other than providing the  
368 services specified in the contract with the business.

369 (v) "Share" means to share, rent, release, disclose,  
370 disseminate, make available, transfer, or access a consumer's  
371 personal information for advertising. The term includes:

372 1. Allowing a third party to use or advertise to a  
373 consumer based on a consumer's personal information without  
374 disclosure of the personal information to the third party.

375 2. Monetary transactions, nonmonetary transactions, and

376 transactions for other valuable consideration between a business  
377 and a third party for advertising for the benefit of a business.

378 (w) "Third party" means a person who is not any of the  
379 following:

380 1. The business that collects personal information from  
381 consumers under this section.

382 2. A service provider to whom the business discloses  
383 personal information about consumers for a business purpose  
384 pursuant to a written contract.

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

398 (y) "Verifiable consumer request" means a request that is  
399 made by a consumer, by a consumer on behalf of the consumer's  
400 minor child, or by a natural person or a person authorized by



401 the consumer to act on the consumer's behalf, and that the  
402 business can reasonably verify pursuant to rules adopted by the  
403 department to be the consumer about whom the business has  
404 collected personal information. A business is not obligated to  
405 provide information to the consumer if the business cannot  
406 verify that the consumer making the request is the consumer  
407 about whom the business has collected information or is a person  
408 authorized by the consumer to act on the consumer's behalf.

409 (2) PRIVACY POLICY FOR PERSONAL INFORMATION.—

410 (a) A business that collects personal information about  
411 consumers shall maintain an online privacy policy, make such  
412 policy available on its Internet website, and update the  
413 information at least once every 12 months unless the privacy  
414 policy has not changed and an update is not reasonably required.  
415 The online privacy policy must include the following  
416 information:

417 1. Any Florida-specific consumer privacy rights.

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

420 3. Of the categories identified in subparagraph 2., a list  
421 that identifies which categories of personal information the  
422 business sells or shares or has sold or shared about consumers.

423 If the business does not sell or share personal information, the  
424 business shall disclose that fact.

425 4. Of the categories identified in subparagraph 2., a list

426 that identifies which categories of personal information the  
427 business discloses or shares or has disclosed or shared about  
428 consumers for a business purpose. If the business does not  
429 disclose or share personal information for a business purpose,  
430 the business shall disclose that fact.

431 5. The right to opt-out of the sale or sharing to third  
432 parties and the ability to request deletion or correction of  
433 certain personal information.

434 (b) A consumer has the right to request that a business  
435 that collects personal information disclose to the consumer the  
436 categories and specific pieces of personal information the  
437 business collects from or about consumers.

438 (c) A business that collects personal information shall,  
439 at or before the point of collection, inform consumers of the  
440 categories of personal information to be collected and the  
441 purposes for which the categories of personal information will  
442 be used.

443 (d) A business may not collect additional categories of  
444 personal information or use personal information collected for  
445 additional purposes without providing the consumer with notice  
446 consistent with this section.

447 (e) A business that collects a consumer's personal  
448 information shall implement and maintain reasonable security  
449 procedures and practices appropriate to the nature of the  
450 personal information to protect the personal information from

451 unauthorized or illegal access, destruction, use, modification,  
452 or disclosure.

453 (f) A business shall provide the information specified in  
454 paragraph (b) to a consumer only upon receipt of a verifiable  
455 consumer request.

456 (g) A business shall provide and follow a retention  
457 schedule that prohibits the use and retention of personal  
458 information after satisfaction of the initial purpose for  
459 collecting or obtaining such information, or after the duration  
460 of a contract, or 1 year after the consumer's last interaction  
461 with the business, whichever occurs first. This paragraph does  
462 not apply to biometric information used for ticketing purposes  
463 and does not apply if such information is only kept for the time  
464 related to the duration of the ticketed event.

465 (3) CONSUMER RIGHT TO REQUEST COPY OF PERSONAL DATA  
466 COLLECTED.—

467 (a) A consumer has the right to request that a business  
468 that collects personal information about the consumer disclose  
469 the personal information that has been collected by the  
470 business.

471 (b) A business that receives a verifiable consumer request  
472 from a consumer to access personal information shall promptly  
473 take steps to disclose and deliver, free of charge to the  
474 consumer, the personal information required by this section. The  
475 information may be delivered by mail or electronically, and if

476 provided electronically, the information must be in a portable  
477 and, to the extent technically feasible, readily useable format  
478 that allows the consumer to transmit this information to another  
479 entity without hindrance. A business may provide personal  
480 information to a consumer at any time, but may not be required  
481 to provide personal information to a consumer more than twice in  
482 a 12-month period.

483 (c) A business shall disclose the following to the  
484 consumer:

485 1. The specific pieces of personal information it has  
486 collected about the consumer.

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

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

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

493 (d) A business that collects personal information about a  
494 consumer shall disclose the information specified in paragraph  
495 (a) to the consumer upon receipt of a verifiable consumer  
496 request from the consumer.

497 (e) This subsection does not require a business to do the  
498 following:

499 1. Retain any personal information about a consumer  
500 collected for a single one-time transaction if, in the ordinary

501 course of business, that information about the consumer is not  
502 retained.

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

506 (4) RIGHT TO HAVE PERSONAL INFORMATION DELETED OR  
507 CORRECTED.—

508 (a) A consumer has the right to request that a business  
509 delete any personal information about the consumer which the  
510 business has collected from the consumer.

511 (b) A business that receives a verifiable consumer request  
512 from a consumer to delete the consumer's personal information  
513 shall delete the consumer's personal information from its  
514 records and direct any service providers to delete the  
515 consumer's personal information from their records.

516 (c) A business or a service provider acting pursuant to  
517 its contract with the business or another service provider may  
518 not be required to comply with a consumer's request to delete  
519 the consumer's personal information if it is reasonably  
520 necessary for the business or service provider to maintain the  
521 consumer's personal information to do any of the following:

522 1. Complete the transaction for which the personal  
523 information was collected.

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

526 3. Provide a good or service requested by the consumer, or  
527 reasonably anticipated within the context of a business' ongoing  
528 business relationship with the consumer, or otherwise perform a  
529 contract between the business and the consumer.

530 4. Detect security incidents, protect against malicious,  
531 deceptive, fraudulent, or illegal activity; or prosecute those  
532 responsible for that activity.

533 5. Debug to identify and repair errors that impair  
534 existing intended functionality.

535 6. Engage in public or peer-reviewed scientific,  
536 historical, or statistical research in the public interest that  
537 adheres to all other applicable ethics and privacy laws when the  
538 business' deletion of the information is likely to render  
539 impossible or seriously impair the achievement of such research,  
540 if the consumer has provided informed consent.

541 7. Enable solely internal uses that are reasonably aligned  
542 with the expectations of the consumer based on the consumer's  
543 relationship with the business.

544 8. Comply with a legal obligation.

545 9. As reasonably needed to protect the business's  
546 interests against existing disputes, legal action, or  
547 governmental investigations.

548 10. Otherwise internally use the consumer's personal  
549 information in a lawful manner that is compatible with the  
550 context in which the consumer provided the information.

551 (d) A consumer has the right to make a request to correct  
552 inaccurate personal information to a business that maintains  
553 inaccurate personal information about the consumer, while taking  
554 into account the nature of the personal information and the  
555 purposes of the processing of the personal information. A  
556 business that receives a verifiable consumer request to correct  
557 inaccurate personal information shall use commercially  
558 reasonable efforts to correct the inaccurate personal  
559 information as directed by the consumer. If a business maintains  
560 a self-service mechanism to allow a consumer to correct certain  
561 personal information, the business may require the consumer to  
562 correct their own personal information through such mechanism.

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

564 (a) A consumer has the right to request that a business  
565 that sells or shares personal information about the consumer, or  
566 discloses such information for a business purpose, to disclose  
567 to the consumer:

568 1. The categories of personal information about the  
569 consumer the business sold or shared.

570 2. The categories of third parties to which the personal  
571 information about the consumer was sold or shared by category of  
572 personal information for each category of third parties to which  
573 the personal information was sold or shared.

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

576 (b) A business that sells or shares personal information  
577 about consumers or discloses such information for a business  
578 purpose shall disclose the information specified in paragraph  
579 (a) to the consumer upon receipt of a verifiable consumer  
580 request from the consumer.

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

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

587 (a) A consumer has the right at any time to direct a  
588 business that sells or shares personal information about the  
589 consumer to third parties to not sell or share the consumer's  
590 personal information. This right may be referred to as the right  
591 to opt-out.

592 (b) A business that sells or shares personal information  
593 to third parties shall provide notice to consumers that this  
594 information may be sold and shared and that consumers have the  
595 right to opt-out of the sale or sharing of their personal  
596 information.

597 (c) Notwithstanding paragraph (a), a business may not sell  
598 or share the personal information of a consumer if the business  
599 has actual knowledge that the consumer is not 16 years of age or  
600 older, unless the consumer, in the case of consumers between 13



601 and 15 years of age, or the consumer's parent or guardian, in  
602 the case of consumers who are 12 years of age or younger, has  
603 affirmatively authorized the sale or sharing of the consumer's  
604 personal information. A business that willfully disregards the  
605 consumer's age is deemed to have had actual knowledge of the  
606 consumer's age. This right may be referred to as the right to  
607 opt-in.

608 (d) A business that has received direction from a consumer  
609 prohibiting the sale or sharing of the consumer's personal  
610 information or that has not received consent to sell or share a  
611 minor consumer's personal information is prohibited from selling  
612 or sharing the consumer's personal information after its receipt  
613 of the consumer's direction, unless the consumer subsequently  
614 provides express authorization for the sale or sharing of the  
615 consumer's personal information.

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

617 1. A consumer uses or directs the business to  
618 intentionally disclose personal information or uses the business  
619 to intentionally interact with a third party. An intentional  
620 interaction occurs when the consumer intends to interact with  
621 the third party, via one or more deliberate interactions.  
622 Hovering over, muting, pausing, or closing a given piece of  
623 content does not constitute a consumer's intent to interact with  
624 a third party.

625 2. The business uses or shares an identifier for a

626 consumer who has opted out of the sale or sharing of the  
627 consumer's personal information for the purposes of alerting  
628 third parties that the consumer has opted out of the sale or  
629 sharing of the consumer's personal information.

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

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

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

639 4. The business transfers to a third party the personal  
640 information of a consumer as an asset that is part of a merger,  
641 acquisition, bankruptcy, or other transaction in which the third  
642 party assumes control of all or part of the business, provided  
643 that information is used or shared consistently with subsections  
644 (3) and (5). If a third party materially alters how it uses or  
645 shares the personal information of a consumer in a manner that  
646 is materially inconsistent with the promises made at the time of  
647 collection, it shall provide prior notice of the new or changed  
648 practice to the consumer. The notice must be sufficiently  
649 prominent and robust to ensure that existing consumers can  
650 easily exercise their choices consistently with this subsection.

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

652 1. A consumer uses or directs the business to  
653 intentionally disclose personal information or intentionally  
654 interact with one or more third parties.

655 2. The business uses or shares an identifier for a  
656 consumer who has opted-out of sharing the consumer's personal  
657 information for the purposes of alerting persons that the  
658 consumer has opted-out of sharing the consumer's personal  
659 information.

660 (7) DISCRIMINATION AGAINST CONSUMERS WHO EXERCISE THEIR  
661 RIGHTS.—

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

666 a. Denying goods or services to the consumer.

667 b. Charging different prices or rates for goods or  
668 services, including through the use of discounts or other  
669 benefits or imposing penalties.

670 c. Providing a different level or quality of goods or  
671 services to the consumer.

672 d. Suggesting that the consumer will receive a different  
673 price or rate for goods or services or a different level or  
674 quality of goods or services.

675 2. This paragraph does not prohibit a business from

676 charging a consumer a different price or rate, or from providing  
677 a different level or quality of goods or services to the  
678 consumer, if that difference is reasonably related to the value  
679 provided to the business by the consumer's data.

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

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

687 3. A business that offers any financial incentives shall  
688 notify consumers of the financial incentives.

689 4. A business may enter a consumer into a financial  
690 incentive program only if the consumer gives the business prior  
691 consent that clearly describes the material terms of the  
692 financial incentive program. The consent may be revoked by the  
693 consumer at any time.

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

696 (8) REQUESTS FOR PERSONAL INFORMATION.—

697 (a) To comply with this subsection, a business shall, in a  
698 form that is reasonably accessible to consumers, make available  
699 two or more methods for submitting verifiable consumer requests,  
700 including, but not limited to, a toll-free number and, if the

701 business maintains an Internet website, a link on the homepage  
702 of the website. The business may not require the consumer to  
703 create an account with the business in order to make a  
704 verifiable consumer request.

705 (b) The business shall deliver the information required or  
706 act on the request in subsections (3) through (5) to a consumer  
707 free of charge within 45 days after receiving a verifiable  
708 consumer request. The response period may be extended once by 30  
709 additional days when reasonably necessary, while taking into  
710 account the complexity of the consumer's requests, provided the  
711 business informs the consumer of any such extension within the  
712 initial 45-day response period along with the reason for the  
713 extension. The information must be delivered in a readily usable  
714 format that allows the consumer to transmit the information from  
715 one entity to another entity without hindrance.

716 (c) If a third party assumes control of all or part of a  
717 business, acquires a consumer's personal information as part of  
718 the transfer, and the third party materially alters how it uses  
719 a consumer's personal information or shares the information in a  
720 manner that is materially inconsistent with the promises made at  
721 the time of collection, the third party must provide prior  
722 notice of the new or changed practice to the consumer. The  
723 notice must be sufficiently prominent and robust to ensure that  
724 existing consumers can easily exercise their rights under  
725 subsections (3) through (6).

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

- 728 1. Selling or sharing the personal information;  
 729 2. Retaining, using, or disclosing the personal  
 730 information for any purpose, commercial or otherwise, other than  
 731 for the business purposes specified in the contract with the  
 732 business; or

- 733 3. Combining the personal information that the service  
 734 provider receives from or on behalf of the business with  
 735 personal information that it receives from or on behalf of  
 736 another person or entity or that the service provider collects  
 737 from its own interaction with the consumer, provided that the  
 738 service provider may combine personal information to perform any  
 739 business purpose.

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

- 742 1. Selling or sharing the personal information.  
 743 2. Retaining, using, or disclosing the information outside  
 744 of the direct business relationship between the person and the  
 745 business.

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

749 (g) A third party or service provider or any subcontractor  
 750 thereof who violates any of the restrictions imposed upon it

751 under this section is liable for any violations. A business that  
752 discloses personal information to a third party or service  
753 provider in compliance with this section is not liable if the  
754 person receiving the personal information uses it in violation  
755 of the restrictions under this section, provided that at the  
756 time of disclosing the personal information, the business does  
757 not have actual knowledge or reason to believe that the person  
758 intends to commit such a violation.

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

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

763 1. Provide a clear and conspicuous link on the business's  
764 Internet homepage, entitled "Do Not Sell or Share My Personal  
765 Information," to an Internet webpage that enables a consumer, or  
766 a person authorized by the consumer, to opt-out of the sale or  
767 sharing of the consumer's personal information. A business may  
768 not require a consumer to create an account in order to direct  
769 the business not to sell the consumer's personal information.

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

773 a. Its online privacy policy or policies.

774 b. Any Florida-specific consumer privacy rights.

775 3. Ensure that all individuals responsible for handling

776 consumer inquiries about the business's privacy practices or the  
777 business's compliance with this section are informed of all  
778 requirements in subsection (6) and this subsection and how to  
779 direct consumers to exercise their rights subsection (6) and  
780 this subsection.

781 4. For consumers who opt-out of the sale or sharing of  
782 their personal information, refrain from selling or sharing  
783 personal information collected by the business about the  
784 consumer.

785 5. For consumers who opted-out of the sale or sharing of  
786 their personal information, respect the consumer's decision to  
787 opt-out for at least 12 months before requesting that the  
788 consumer authorize the sale of the consumer's personal  
789 information.

790 6. Use any personal information collected from the  
791 consumer in connection with the submission of the consumer's  
792 opt-out request solely for the purposes of complying with the  
793 opt-out request.

794 (b) This subsection does not require a business to include  
795 the required links and text on the homepage that the business  
796 makes available to the public generally, if the business  
797 maintains a separate and additional homepage that is dedicated  
798 to Florida consumers and that includes the required links and  
799 text, and the business takes reasonable steps to ensure that  
800 Florida consumers are directed to the homepage for Florida



801 consumers and not the homepage made available to the public  
802 generally.

803 (c) A consumer may authorize another person to opt-out of  
804 the sale or sharing of the consumer's personal information on  
805 the consumer's behalf, and a business shall comply with an opt-  
806 out request received from a person authorized by the consumer to  
807 act on the consumer's behalf, pursuant to rules adopted by the  
808 department.

809 (10) EXCEPTIONS.—

810 (a) This section does not restrict the ability of any  
811 business, service provider, or third party to do any of the  
812 following:

813 1. Collect and transmit personal information that is  
814 necessary for the sole purpose of sharing such personal  
815 information with a financial service provider to facilitate  
816 short term, transactional payment processing for the purchase of  
817 products or services.

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

819 3. Comply with a civil, criminal, or regulatory inquiry,  
820 investigation, subpoena, or summons by federal, state, or local  
821 authorities.

822 4. Cooperate with law enforcement agencies concerning  
823 conduct or activity that the business, service provider, or  
824 third party reasonably and in good faith believes may violate  
825 federal, state, or local law.

- 826       5. Exercise legal rights or privileges.
- 827       6. Collect, use, retain, sell, share, or disclose  
828 deidentified personal information or aggregate consumer  
829 information. If a business uses, sells, or shares deidentified  
830 information, the business shall:
- 831       a. Implement technical safeguards that prohibit  
832 reidentification of the consumer to whom the information may  
833 pertain;
- 834       b. Implement business processes that specifically prohibit  
835 reidentification of the information;
- 836       c. Implement business processes to prevent inadvertent  
837 release of deidentified information; and
- 838       d. Not attempt to reidentify the information.
- 839       (b) This section does not apply to:
- 840       1. Personal information used by a business or service  
841 provider to advertise or market products or services that are  
842 produced or offered directly by the business or service  
843 provider, as long as personal information is not sold, shared,  
844 or disclosed to another party outside the consumer's direct  
845 interaction with the business or service provider.
- 846       2. A business that collects or discloses the personal  
847 information of its employees, applicants, interns, or  
848 volunteers, so long as the business is collecting or disclosing  
849 such information within the scope of its role as an employer.
- 850       3. Protected health information for purposes of the

851 federal Health Insurance Portability and Accountability Act of  
852 1996 and related regulations, and patient identifying  
853 information for purposes of 42 C.F.R. Part 2, established  
854 pursuant to 42 U.S.C. s. 290dd-2.

855 4. A covered entity or business associate governed by the  
856 privacy, security, and breach notification rules issued by the  
857 United States Department of Health and Human Services in 45  
858 C.F.R. parts 160 and 164, or a program or a qualified service  
859 program as defined in 42 C.F.R. part 2, to the extent the  
860 covered entity, business associate, or program maintains  
861 personal information in the same manner as medical information  
862 or protected health information as described in subparagraph 3.

863 5. Identifiable private information collected for purposes  
864 of research as defined in 45 C.F.R. s. 164.501 conducted in  
865 accordance with the Federal Policy for the Protection of Human  
866 Subjects for purposes of 45 C.F.R. part 46, the good clinical  
867 practice guidelines issued by the International Council for  
868 Harmonisation of Technical Requirements for Pharmaceuticals for  
869 Human Use, or the Protection for Human Subjects for purposes of  
870 21 C.F.R. Parts 50 and 56, or personal information that is used  
871 or shared in research conducted in accordance with one or more  
872 of these standards.

873 6. Information and documents created for purposes of the  
874 federal Health Care Quality Improvement Act of 1986 and related  
875 regulations, or patient safety work product for purposes of 42

876 C.F.R. part 3, established pursuant to 42 U.S.C. s. 299b-21  
877 through 299b-26.

878 7. Information that is deidentified in accordance with 45  
879 C.F.R. part 164 and derived from individually identifiable  
880 health information as described in the Health Insurance  
881 Portability and Accountability Act of 1996, or identifiable  
882 personal information, consistent with the Federal Policy for the  
883 Protection of Human Subjects or the human subject protection  
884 requirements of the United States Food and Drug Administration.

885 8. Information used only for public health activities and  
886 purposes as described in 45 C.F.R. s. 164.512.

887 9. Sale or sharing of personal information to or from a  
888 consumer reporting agency if that information is to be reported  
889 in or used to generate a consumer report as defined by 15 U.S.C.  
890 s. 1681(a), or sale or sharing of personal information to  
891 procure, provide, or disclose a consumer report if use of that  
892 information is limited pursuant to the federal Fair Credit  
893 Reporting Act, 15 U.S.C. s. 1681.

894 10. Personal information collected, processed, sold, or  
895 disclosed pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. s.  
896 6801 et seq. and implementing regulations.

897 11. Personal information collected, processed, sold, or  
898 disclosed pursuant to the federal Driver's Privacy Protection  
899 Act of 1994, 18 U.S.C. s. 2721 et. seq.

900 12. Education information covered by the Family

901 Educational Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34  
902 C.F.R. part 99.

903 13. Information collected as part of public or peer-  
904 reviewed scientific or statistical research in the public  
905 interest.

906 (11) CONTRACTS.—Any provision of a contract or agreement  
907 of any kind that waives or limits in any way a consumer's rights  
908 under this section, including, but not limited to, any right to  
909 a remedy or means of enforcement, is deemed contrary to public  
910 policy and is void and unenforceable. This section does not  
911 prevent a consumer from declining to request information from a  
912 business, declining to opt-out of a business's sale or sharing  
913 of the consumer's personal information, or authorizing a  
914 business to sell or share the consumer's personal information  
915 after previously opting out. This subsection only applies to  
916 contracts entered into after January 1, 2022.

917 (12) CIVIL ACTIONS; PRIVATE RIGHT OF ACTION.—

918 (a) A consumer may bring a civil action against a business  
919 for any of the following:

920 1. Failure to protect a consumer's nonencrypted and  
921 nonredacted personal information or e-mail address, in  
922 combination with a password or security question and answer that  
923 would allow access to the account, and is subject to an  
924 unauthorized access and exfiltration, theft, or disclosure as a  
925 result of a business' violation of the duty to implement and

926 maintain reasonable security procedures and practices.

927 2. Failure to delete or correct a consumer's personal  
 928 information pursuant to this section after receiving a  
 929 verifiable consumer request unless the business qualifies for an  
 930 exception to requirements to delete or correct under this  
 931 section.

932 3. Continuing to sell or share a consumer's personal  
 933 information after the consumer chooses to opt-out pursuant to  
 934 this section.

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

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

939 2. Injunctive or declaratory relief.

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

942 (13) ENFORCEMENT AND IMPLEMENTATION.-

943 (a) If the department has reason to believe that any  
 944 business, service provider, or other person or entity is in  
 945 violation of this section and that proceedings would be in the  
 946 public interest, the department may bring an action against such  
 947 business, service provider, or other person or entity and may  
 948 seek a civil penalty of not more than \$2,500 for each  
 949 unintentional violation or \$7,500 for each intentional  
 950 violation. Such fines may be tripled if the violation involves a

951 consumer who is 16 years of age or younger.

952 (b) The department may adopt rules to implement this  
953 section.

954 (c) After the department has notified a business in  
955 writing of an alleged violation, the department may in its  
956 discretion grant the business a 30-day period to cure the  
957 alleged violation. The department may consider the number of  
958 violations, the substantial likelihood of injury to the public,  
959 or the safety of persons or property when determining whether to  
960 grant 30 days to cure. If the business cures the alleged  
961 violation to the satisfaction of the department and provides  
962 proof to the department, the department may issue a letter of  
963 guidance to the business that indicates that the business will  
964 not be offered a 30-day cure period for any future violations.  
965 If the business fails to cure the violation within 30 days, the  
966 department may bring an action against the business for the  
967 alleged violation.

968 (d) This subsection does not affect the private right of  
969 action provided in subsection (12).

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