



338388

LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/RM	.	Floor: C
05/04/2023 05:19 PM	.	05/04/2023 06:26 PM
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Senator Bradley moved the following:

1           **Senate Amendment to House Amendment (703943) (with title**  
2 **amendment)**

3  
4           Delete lines 7 - 185

5 and insert:

6 that consumer's activities over time across affiliated or  
7 unaffiliated websites and online applications used to predict  
8 the consumer's preferences or interests. The term does not  
9 include an advertisement that is:

10           (a) Based on the context of a consumer's current search  
11 query on the controller's own website or online application; or



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12           (b) Directed to a consumer search query on the controller's  
13 own website or online application in response to the consumer's  
14 request for information or feedback.

15           (34) "Third party" means a person, other than the consumer,  
16 the controller, the processor, or an affiliate of the controller  
17 or processor.

18           (35) "Trade secret" has the same meaning as in s. 812.081.

19           (36) "Voice recognition feature" means the function of a  
20 device which enables the collection, recording, storage,  
21 analysis, transmission, interpretation, or other use of spoken  
22 words or other sounds.

23           Section 5. Section 501.703, Florida Statutes, is created to  
24 read:

25           501.703 Applicability.—

26           (1) This part applies only to a person who:

27           (a) Conducts business in this state or produces a product  
28 or service used by residents of this state; and

29           (b) Processes or engages in the sale of personal data.

30           (2) This part does not apply to any of the following:

31           (a) A state agency or a political subdivision of the state.

32           (b) A financial institution or data subject to Title V,  
33 Gramm-Leach-Bliley Act, 15 U.S.C. ss. 6801 et seq.

34           (c) A covered entity or business associate governed by the  
35 privacy, security, and breach notification regulations issued by  
36 the United States Department of Health and Human Services, 45  
37 C.F.R. parts 160 and 164, established under the Health Insurance  
38 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
39 et seq., and the Health Information Technology for Economic and  
40 Clinical Health Act, Division A, Title XIII and Division B,



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41 Title IV, Pub. L. No. 111-5.  
42 (d) A nonprofit organization.  
43 (e) A postsecondary education institution.  
44 (f) The processing of personal data:  
45 1. By a person in the course of a purely personal or  
46 household activity.  
47 2. Solely for measuring or reporting advertising  
48 performance, reach, or frequency.  
49 (3) A controller or processor that complies with the  
50 authenticated parental consent requirements of the Children's  
51 Online Privacy Protection Act, 15 U.S.C. ss. 6501 et seq., with  
52 respect to data collected online, is considered to be in  
53 compliance with any requirement to obtain parental consent under  
54 this part.  
55 Section 6. Section 501.704, Florida Statutes, is created to  
56 read:  
57 501.704 Exemptions.—All of the following information is  
58 exempt from this part:  
59 (1) Protected health information under the Health Insurance  
60 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
61 et seq.  
62 (2) Health records.  
63 (3) Patient identifying information for purposes of 42  
64 U.S.C. s. 290dd-2.  
65 (4) Identifiable private information:  
66 (a) For purposes of the federal policy for the protection  
67 of human subjects under 45 C.F.R. part 46;  
68 (b) Collected as part of human subjects research under the  
69 good clinical practice guidelines issued by the International



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70 Council for Harmonisation of Technical Requirements for  
71 Pharmaceuticals for Human Use or the protection of human  
72 subjects under 21 C.F.R. parts 50 and 56; or

73 (c) That is personal data used or shared in research  
74 conducted in accordance with this part or other research  
75 conducted in accordance with applicable law.

76 (5) Information and documents created for purposes of the  
77 Health Care Quality Improvement Act of 1986, 42 U.S.C. ss. 11101  
78 et seq.

79 (6) Patient safety work product for purposes of the Patient  
80 Safety and Quality Improvement Act of 2005, 42 U.S.C. ss. 299b-  
81 21 et seq.

82 (7) Information derived from any of the health care-related  
83 information listed in this section which is deidentified in  
84 accordance with the requirements for deidentification under the  
85 Health Insurance Portability and Accountability Act of 1996, 42  
86 U.S.C. ss. 1320d et seq.

87 (8) Information originating from, and intermingled to be  
88 indistinguishable with, or information treated in the same  
89 manner as, information exempt under this section which is  
90 maintained by a covered entity or business associate as defined  
91 by the Health Insurance Portability and Accountability Act of  
92 1996, 42 U.S.C. ss. 1320d et seq. or by a program or a qualified  
93 service organization as defined by 42 U.S.C. s. 290dd-2.

94 (9) Information included in a limited data set as described  
95 by 45 C.F.R. s. 164.514(e), to the extent that the information  
96 is used, disclosed, and maintained in the manner specified by 45  
97 C.F.R. s. 164.514(e).

98 (10) Information used only for public health activities and



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99 purposes as described in 45 C.F.R. s. 164.512.

100 (11) Information collected or used only for public health  
101 activities and purposes as authorized by the Health Insurance  
102 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
103 et seq.

104 (12) The collection, maintenance, disclosure, sale,  
105 communication, or use of any personal data bearing on a  
106 consumer's creditworthiness, credit standing, credit capacity,  
107 character, general reputation, personal characteristics, or mode  
108 of living by a consumer reporting agency or furnisher that  
109 provides information for use in a consumer report, or by a user  
110 of a consumer report, but only to the extent that the activity  
111 is regulated by and authorized under the Fair Credit Reporting  
112 Act, 15 U.S.C. ss. 1681 et seq.

113 (13) Personal data collected, processed, sold, or disclosed  
114 in compliance with the Driver's Privacy Protection Act of 1994,  
115 18 U.S.C. ss. 2721 et seq.

116 (14) Personal data regulated by the Family Educational  
117 Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g.

118 (15) Personal data collected, processed, sold, or disclosed  
119 in compliance with the Farm Credit Act of 1971, 12 U.S.C. ss.  
120 2001 et seq.

121 (16) Data processed or maintained in the course of an  
122 individual applying to, being employed by, or acting as an agent  
123 or independent contractor of a controller, processor, or third  
124 party, to the extent that the data is collected and used within  
125 the context of that role.

126 (17) Data processed or maintained as the emergency contact  
127 information of an individual under this part which is used for



128 emergency contact purposes.

129 (18) Data that is processed or maintained and that is  
130 necessary to retain to administer benefits for another  
131 individual which relates to an individual described in  
132 subsection (16) and which is used for the purposes of  
133 administering those benefits.

134 (19) Personal data collected and transmitted which is  
135 necessary for the sole purpose of sharing such personal data  
136 with a financial service provider solely to facilitate short-  
137 term, transactional payment processing for the purchase of  
138 products or services.

139 (20) Personal data collected, processed, sold, or disclosed  
140 in relation to price, route, or service as those terms are used  
141 in the Airline Deregulation Act, 49 U.S.C. ss. 40101 et seq., by  
142 entities subject to that act, to the extent the provisions of  
143 this act are preempted by 49 U.S.C. s. 41713.

144 (21) Personal data shared between a manufacturer of a  
145 tangible product and authorized third-party distributors or  
146 vendors of the product, as long as such personal data is used  
147 solely for advertising, marketing, or servicing the product that  
148 is acquired directly through such manufacturer and such  
149 authorized third-party distributors or vendors. Such personal  
150 data may not be sold or shared unless otherwise authorized under  
151 this part.

152 Section 7. Section 501.705, Florida Statutes, is created to  
153 read:

154 501.705 Consumer rights.—

155 (1) A consumer is entitled to exercise the consumer rights  
156 authorized by this section at any time by submitting a request



157 to a controller which specifies the consumer rights that the  
158 consumer wishes to exercise. With respect to the processing of  
159 personal data belonging to a known child, a parent or legal  
160 guardian of the child may exercise these rights on behalf of the  
161 child.

162 (2) A controller shall comply with an authenticated  
163 consumer request to exercise any of the following rights:

164 (a) To confirm whether a controller is processing the  
165 consumer's personal data and to access the personal data.

166 (b) To correct inaccuracies in the consumer's personal  
167 data, taking into account the nature of the personal data and  
168 the purposes of the processing of the consumer's personal data.

169 (c) To delete any or all personal data provided by or  
170 obtained about the consumer.

171 (d) To obtain a copy of the consumer's personal data in a  
172 portable and, to the extent technically feasible, readily usable  
173 format if the data is available in a digital format.

174 (e) To opt out of the processing of the personal data for  
175 purposes of:

176 1. Targeted advertising;

177 2. The sale of personal data; or

178 3. Profiling in furtherance of a decision that produces a  
179 legal or similarly significant effect concerning a consumer.

180 (f) To opt out of the collection of sensitive data,  
181 including precise geolocation data, or the processing of  
182 sensitive data.

183 (g) To opt out of the collection of personal data collected  
184 through the operation of a voice recognition or facial  
185 recognition feature.



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186       (3) A device that has a voice recognition feature, a facial  
187 recognition feature, a video recording feature, an audio  
188 recording feature, or any other electronic, visual, thermal, or  
189 olfactory feature that collects data may not use those features  
190 for the purpose of surveillance by the controller, processor, or  
191 affiliate of a controller or processor when such features are  
192 not in active use by the consumer, unless otherwise expressly  
193 authorized by the consumer.

194  
195 ===== T I T L E   A M E N D M E N T =====

196 And the title is amended as follows:

197       After line 185

198 insert:

199       Between lines 18 and 19

200       insert:

201       prohibiting certain devices from being used for  
202       surveillance purposes without the express  
203       authorization of the consumer under certain  
204       circumstances;