

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative McFarland offered the following:

2
3 **Amendment**

4 Remove lines 448-630 and insert:

5 (33) "Targeted advertising" means displaying to a consumer
6 an advertisement selected based on personal data obtained from
7 that consumer's activities over time. The term does not include
8 an advertisement that is:

9 (a) Based on the context of a consumer's current search
10 query, visit to a website, or use of an online application; or

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

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

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

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

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

24 501.703 Applicability.—

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

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

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

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

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

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39 et seq., and the Health Information Technology for Economic and
40 Clinical Health Act, Division A, Title XIII and Division B,
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
56 to read:

57 501.704 Exemptions.—All of the following information is
58 exempt from this part:

59 (1) Protected health information under the Health
60 Insurance Portability and Accountability Act of 1996, 42 U.S.C.
61 ss. 1320d et seq.

62 (2) Health records.

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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
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
80 Patient Safety and Quality Improvement Act of 2005, 42 U.S.C.
81 ss. 299b-21 et seq.

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

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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
95 described by 45 C.F.R. s. 164.514(e), to the extent that the
96 information is used, disclosed, and maintained in the manner
97 specified by 45 C.F.R. s. 164.514(e).

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

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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
114 disclosed in compliance with the Driver's Privacy Protection Act
115 of 1994, 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
119 disclosed in compliance with the Farm Credit Act of 1971, 12
120 U.S.C. ss. 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

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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
140 disclosed in relation to price, route, or service as those terms
141 are used in the Airline Deregulation Act, 49 U.S.C. ss. 40101 et
142 seq., by entities subject to that act, to the extent the
143 provisions of 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
153 to 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

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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:

181 1. Collection of sensitive data not subject to s. 501.173.

182 2. Processing of sensitive data.

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183 (g) To opt out of the collection of personal data not
184 subject to s. 501.173 collected through the operation of a voice
185 recognition feature.

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