

By Senator Bradley

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1                                   A bill to be entitled  
2       An act relating to technology transparency; creating  
3       s. 112.23, F.S.; defining terms; prohibiting officers  
4       or salaried employees of governmental entities from  
5       using their positions or state resources to make  
6       certain requests of social media platforms;  
7       prohibiting governmental entities from initiating or  
8       maintaining agreements or working relationships with  
9       social media platforms under a specified circumstance;  
10      providing exceptions; creating s. 501.173, F.S.;  
11      providing applicability; defining terms; prohibiting a  
12      controller from collecting certain consumer  
13      information without the consumer's authorization;  
14      requiring controllers that collect a consumer's  
15      personal information to disclose certain information  
16      regarding data collection and selling practices to the  
17      consumer at or before the point of collection;  
18      specifying that such information may be provided  
19      through a general privacy policy or through a notice  
20      informing the consumer that additional specific  
21      information will be provided upon a certain request;  
22      prohibiting controllers from collecting additional  
23      categories of personal information or using personal  
24      information for additional purposes without notifying  
25      the consumer; requiring controllers that collect  
26      personal information to implement reasonable security  
27      procedures and practices to protect such information;  
28      authorizing consumers to request controllers to  
29      disclose the specific personal information the

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30 controller has collected about the consumer; requiring  
31 controllers to make available two or more methods for  
32 consumers to request their personal information;  
33 requiring controllers to provide such information free  
34 of charge within a certain timeframe and in a certain  
35 format upon receiving a verifiable consumer request;  
36 specifying requirements for third parties with respect  
37 to consumer information acquired or used; providing  
38 construction; authorizing consumers to request  
39 controllers to delete or correct personal information  
40 collected by the controllers; providing exceptions;  
41 specifying requirements for controllers to comply with  
42 deletion or correction requests; authorizing consumers  
43 to opt out of third-party disclosure of personal  
44 information collected by a controller; prohibiting  
45 controllers from selling or disclosing the personal  
46 information of consumers younger than a certain age,  
47 except under certain circumstances; prohibiting  
48 controllers from selling or sharing a consumer's  
49 information if the consumer has opted out of such  
50 disclosure; prohibiting controllers from taking  
51 certain actions to retaliate against consumers who  
52 exercise certain rights; providing applicability;  
53 providing that a contract or agreement that waives or  
54 limits certain consumer rights is void and  
55 unenforceable; authorizing the Department of Legal  
56 Affairs to bring an action under the Florida Deceptive  
57 and Unfair Trade Practices Act and to adopt rules;  
58 requiring the department to submit an annual report to

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59 the Legislature; providing report requirements;  
60 providing that controllers must have a specified  
61 timeframe to cure any violations; providing  
62 jurisdiction; declaring that the act is a matter of  
63 statewide concern; preempting the collection,  
64 processing, sharing, and sale of consumer personal  
65 information to the state; amending s. 501.171, F.S.;  
66 revising the definition of "personal information";  
67 amending s. 16.53, F.S.; requiring that certain  
68 attorney fees, costs, and penalties recovered by the  
69 Attorney General be deposited in the Legal Affairs  
70 Revolving Trust Fund; providing an effective date.

71

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

73

74 Section 1. Section 112.23, Florida Statutes, is created to  
75 read:

76 112.23 Government-directed content moderation of social  
77 media platforms prohibited.—

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

79 (a) "Social media platform" means a form of electronic  
80 communication through which users create online communities to  
81 share information, ideas, personal messages, and other content.

82 (b) "Governmental entity" means any state, county,  
83 district, authority, or municipal officer, department, division,  
84 board, bureau, commission, or other separate unit of government  
85 created or established by law, including, but not limited to,  
86 the Commission on Ethics, the Public Service Commission, the  
87 Office of Public Counsel, and any other public or private

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88 agency, person, partnership, corporation, or business entity  
89 acting on behalf of any public agency.

90 (2) An officer or a salaried employee of a governmental  
91 entity may not use his or her position or any state resources to  
92 communicate with a social media platform to request that it  
93 remove content or accounts from the social media platform.

94 (3) A governmental entity, or an officer or a salaried  
95 employee acting on behalf of a governmental entity, may not  
96 initiate or maintain any agreements or working relationships  
97 with a social media platform for the purpose of content  
98 moderation.

99 (4) Subsections (2) and (3) do not apply if the  
100 governmental entity or an officer or a salaried employee acting  
101 on behalf of a governmental entity is acting as part of any of  
102 the following:

103 (a) Routine account management of the governmental entity's  
104 account.

105 (b) An attempt to remove content or an account that  
106 pertains to the commission of a crime or violation of this  
107 state's public records law.

108 (c) An investigation or inquiry related to public safety.

109 Section 2. Section 501.173, Florida Statutes, is created to  
110 read:

111 501.173 Consumer data privacy.—

112 (1) APPLICABILITY.—This section does not apply to:

113 (a) Personal information collected and transmitted which is  
114 necessary for the sole purpose of sharing such personal  
115 information with a financial service provider solely to  
116 facilitate short term, transactional payment processing for the

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117 purchase of products or services.

118 (b) Personal information collected, used, retained, sold,  
119 shared, or disclosed as deidentified personal information or  
120 aggregate consumer information.

121 (c) Compliance with federal, state, or local laws.

122 (d) Compliance with a civil, criminal, or regulatory  
123 inquiry, investigation, subpoena, or summons by federal, state,  
124 or local authorities.

125 (e) Cooperation with law enforcement agencies concerning  
126 conduct or activity that the controller, processor, or third  
127 party reasonably and in good faith believes may violate federal,  
128 state, or local law.

129 (f) Exercising or defending legal rights, claims, or  
130 privileges.

131 (g) Personal information collected through the controller's  
132 direct interactions with the consumer, if collected in  
133 accordance with this section, which is used by the controller or  
134 the processor that the controller directly contracts with for  
135 advertising or marketing services to advertise or market  
136 products or services that are produced or offered directly by  
137 the controller. Such information may not be sold, shared, or  
138 disclosed unless otherwise authorized under this section.

139 (h) Personal information of a person acting in the role of  
140 a job applicant, employee, owner, director, officer, contractor,  
141 volunteer, or intern of a controller which is collected by a  
142 controller, to the extent the personal information is collected  
143 and used solely within the context of the person's role or  
144 former role with the controller. For purposes of this paragraph,  
145 personal information includes employee benefit information.

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146 (i) Protected health information for purposes of the  
147 federal Health Insurance Portability and Accountability Act of  
148 1996 and related regulations, and patient identifying  
149 information for purposes of 42 C.F.R. part 2, established  
150 pursuant to 42 U.S.C. s. 290dd-2.

151 (j) An entity or business associate governed by the  
152 privacy, security, and breach notification rules issued by the  
153 United States Department of Health and Human Services in 45  
154 C.F.R. parts 160 and 164, or a program or a qualified service  
155 program as defined in 42 C.F.R. part 2, to the extent the  
156 entity, business associate, or program maintains personal  
157 information in the same manner as medical information or  
158 protected health information as described in paragraph (i), and  
159 as long as the entity, business associate, or program does not  
160 use personal information for targeted advertising with third  
161 parties and does not sell or share personal information to a  
162 third party unless such sale or sharing is covered by an  
163 exception under this section.

164 (k) Identifiable private information collected for purposes  
165 of research as defined in 45 C.F.R. s. 164.501 conducted in  
166 accordance with the Federal Policy for the Protection of Human  
167 Subjects for purposes of 45 C.F.R. part 46, the good clinical  
168 practice guidelines issued by the International Council for  
169 Harmonisation of Technical Requirements for Pharmaceuticals for  
170 Human Use, or the Federal Policy for the Protection for Human  
171 Subjects for purposes of 21 C.F.R. parts 50 and 56, or personal  
172 information used or shared in research conducted in accordance  
173 with one or more of these standards.

174 (l) Information and documents created for purposes of the

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175 federal Health Care Quality Improvement Act of 1986 and related  
176 regulations, or patient safety work product for purposes of 42  
177 C.F.R. part 3, established pursuant to 42 U.S.C. s. 299b-21  
178 through 299b-26.

179 (m) Information that is deidentified in accordance with 45  
180 C.F.R. part 164 and derived from individually identifiable  
181 health information as described in the Health Insurance  
182 Portability and Accountability Act of 1996, or identifiable  
183 personal information, consistent with the Federal Policy for the  
184 Protection of Human Subjects or the human subject protection  
185 requirements of the United States Food and Drug Administration.

186 (n) Information used only for public health activities and  
187 purposes as described in 45 C.F.R. s. 164.512.

188 (o) Personal information collected, processed, sold, or  
189 disclosed pursuant to the federal Fair Credit Reporting Act, 15  
190 U.S.C. s. 1681 and implementing regulations.

191 (p) Nonpublic personal information collected, processed,  
192 sold, or disclosed pursuant to the Gramm-Leach-Bliley Act, 15  
193 U.S.C. s. 6801 et seq., and implementing regulations.

194 (q) A financial institution as defined in the Gramm-Leach-  
195 Bliley Act, 15 U.S.C. s. 6801 et seq., to the extent the  
196 financial institution maintains personal information in the same  
197 manner as nonpublic personal information as described in  
198 paragraph (p), and as long as such financial institution does  
199 not use personal information for targeted advertising with third  
200 parties and does not sell or share personal information to a  
201 third party unless such sale or sharing is covered by an  
202 exception under this section.

203 (r) Personal information collected, processed, sold, or

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204 disclosed pursuant to the federal Driver's Privacy Protection  
205 Act of 1994, 18 U.S.C. s. 2721 et seq.

206 (s) Education information covered by the Family Educational  
207 Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34 C.F.R. part  
208 99.

209 (t) Information collected as part of public or peer-  
210 reviewed scientific or statistical research in the public  
211 interest and which adheres to all other applicable ethics and  
212 privacy laws, if the consumer has provided informed consent.  
213 Research with personal information must be subjected by the  
214 controller conducting the research to additional security  
215 controls that limit access to the research data to only those  
216 individuals necessary to carry out the research purpose, and  
217 such personal information must be subsequently deidentified.

218 (u) Personal information disclosed for the purpose of  
219 responding to an alert of a present risk of harm to a person or  
220 property or prosecuting those responsible for that activity.

221 (v) Personal information disclosed when a consumer uses or  
222 directs a controller to intentionally disclose information to a  
223 third party or uses the controller to intentionally interact  
224 with a third party. An intentional interaction occurs when the  
225 consumer intends to interact with the third party, by one or  
226 more deliberate interactions. Hovering over, muting, pausing, or  
227 closing a given piece of content does not constitute a  
228 consumer's intent to interact with a third party.

229 (w) An identifier used for a consumer who has opted out of  
230 the sale or sharing of the consumer's personal information for  
231 the sole purpose of alerting processors and third parties that  
232 the consumer has opted out of the sale or sharing of the



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233 consumer's personal information.

234 (x) Personal information transferred by a controller to a  
235 third party as an asset that is part of a merger, acquisition,  
236 bankruptcy, or other transaction in which the third party  
237 assumes control of all or part of the controller, provided that  
238 the information is used or shared consistently with this  
239 section. If a third party materially alters how it uses or  
240 shares the personal information of a consumer in a manner that  
241 is materially inconsistent with the commitments or promises made  
242 at the time of collection, it must provide prior notice of the  
243 new or changed practice to the consumer. The notice must be  
244 sufficiently prominent and robust to ensure that consumers can  
245 easily exercise choices consistent with this section.

246 (y) Personal information necessary to fulfill the terms of  
247 a written warranty when such warranty was purchased by the  
248 consumer or the product that is warranted was purchased by the  
249 consumer. Such information may not be sold or shared unless  
250 otherwise authorized under this section.

251 (z) Personal information necessary for a product recall for  
252 a product purchased or owned by the consumer conducted in  
253 accordance with federal law. Such information may not be sold or  
254 shared unless otherwise authorized under this section.

255 (aa) Personal information processed solely for the purpose  
256 of independently measuring or reporting advertising or content  
257 performance, reach, or frequency pursuant to a contract with a  
258 controller that collected personal information in accordance  
259 with this section. Such information may not be sold or shared  
260 unless otherwise authorized under this section.

261 (bb) Personal information shared between a manufacturer of

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262 a tangible product and authorized third-party distributors or  
263 vendors of the product, as long as such personal information is  
264 used solely for advertising, marketing, or servicing the product  
265 that is acquired directly through such manufacturer and such  
266 authorized third-party distributors or vendors. Such personal  
267 information may not be sold or shared unless otherwise  
268 authorized under this section.

269 (2) DEFINITIONS.—As used in this section, the term:

270 (a) "Aggregate consumer information" means information that  
271 relates to a group or category of consumers, from which the  
272 identity of an individual consumer has been removed and is not  
273 reasonably capable of being directly or indirectly associated or  
274 linked with any consumer, household, or device. The term does  
275 not include information about a group or category of consumers  
276 used to facilitate targeted advertising or the display of ads  
277 online. The term does not include personal information that has  
278 been deidentified.

279 (b) "Biometric information" means an individual's  
280 physiological, biological, or behavioral characteristics that  
281 can be used, singly or in combination with each other or with  
282 other identifying data, to establish individual identity. The  
283 term includes, but is not limited to, imagery of the iris,  
284 retina, fingerprint, face, hand, palm, vein patterns, and voice  
285 recordings, from which an identifier template, such as a  
286 faceprint, a minutiae template, or a voiceprint, can be  
287 extracted, and keystroke patterns or rhythms, gait patterns or  
288 rhythms, and sleep, health, or exercise data that contain  
289 identifying information.

290 (c) "Collect" means to buy, rent, gather, obtain, receive,

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291 or access any personal information pertaining to a consumer by  
292 any means. The term includes, but is not limited to, actively or  
293 passively receiving information from the consumer or by  
294 observing the consumer's behavior or actions.

295 (d) "Consumer" means a natural person who resides in or is  
296 domiciled in this state, however identified, including by any  
297 unique identifier, who is acting in a personal capacity or  
298 household context. The term does not include a natural person  
299 acting on behalf of a legal entity in a commercial or employment  
300 context.

301 (e) "Controller" means:

302 1. A sole proprietorship, partnership, limited liability  
303 company, corporation, association, or legal entity that meets  
304 the following requirements:

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

307 b. Does business in this state;

308 c. Collects personal information about consumers, or is the  
309 entity on behalf of which such information is collected;

310 d. Determines the purposes and means of processing personal  
311 information about consumers alone or jointly with others;

312 e. Makes in excess of \$1 billion in gross revenues, as  
313 adjusted in January of every odd-numbered year to reflect any  
314 increase in the Consumer Price Index; and

315 f. Satisfies one of the following:

316 (I) Derives 50 percent or more of its global annual  
317 revenues from providing targeted advertising or the sale of ads  
318 online; or

319 (II) Operates a consumer smart speaker and voice command

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320 component service with an integrated virtual assistant connected  
321 to a cloud computing service that uses hands-free verbal  
322 activation. For purposes of this sub-sub-subparagraph, a  
323 consumer smart speaker and voice command component service does  
324 not include a motor vehicle or speaker or device associated with  
325 or connected to a vehicle.

326 2. Any entity that controls or is controlled by a  
327 controller. As used in this subparagraph, the term "control"  
328 means:

329 a. Ownership of, or the power to vote, more than 50 percent  
330 of the outstanding shares of any class of voting security of a  
331 controller;

332 b. Control in any manner over the election of a majority of  
333 the directors, or of individuals exercising similar functions;  
334 or

335 c. The power to exercise a controlling influence over the  
336 management of a company.

337 (f) "Deidentified" means information that cannot reasonably  
338 be used to infer information about or otherwise be linked to a  
339 particular consumer, provided that the controller that possesses  
340 the information:

341 1. Takes reasonable measures to ensure that the information  
342 cannot be associated with a specific consumer;

343 2. Maintains and uses the information in deidentified form  
344 and does not attempt to reidentify the information, except that  
345 the controller may attempt to reidentify the information solely  
346 for the purpose of determining whether its deidentification  
347 processes satisfy the requirements of this paragraph;

348 3. Contractually obligates any recipients of the

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349 information to comply with all this paragraph to avoid  
350 reidentifying such information; and

351 4. Implements business processes to prevent the inadvertent  
352 release of deidentified information.

353 (g) "Department" means the Department of Legal Affairs.

354 (h) "Device" means a physical object associated with a  
355 consumer or household capable of directly or indirectly  
356 connecting to the Internet.

357 (i) "Genetic information" means information about an  
358 individual's deoxyribonucleic acid (DNA).

359 (j) "Homepage" means the introductory page of an Internet  
360 website and any Internet webpage where personal information is  
361 collected. In the case of a mobile application, the homepage is  
362 the application's platform page or download page, a link within  
363 the application, such as the "About" or "Information"  
364 application configurations, or the settings page, and any other  
365 location that allows consumers to review the notice required by  
366 subsection (7), including, but not limited to, before  
367 downloading the application.

368 (k) "Household" means a natural person or a group of people  
369 in this state who reside at the same address, share a common  
370 device or the same service provided by a controller, and are  
371 identified by a controller as sharing the same group account or  
372 unique identifier.

373 (l) "Personal information" means information that is linked  
374 or reasonably linkable to an identified or identifiable consumer  
375 or household, including biometric information, genetic  
376 information, and unique identifiers to the consumer.

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

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378 a. Identifiers such as a real name, alias, postal address,  
379 unique identifier, online identifier, internet protocol address,  
380 email address, account name, social security number, driver  
381 license number, passport number, or other similar identifiers.

382 b. Information that identifies, relates to, or describes,  
383 or could be associated with, a particular individual, including,  
384 but not limited to, a name, signature, social security number,  
385 physical characteristics or description, address, location,  
386 telephone number, passport number, driver license or state  
387 identification card number, insurance policy number, education,  
388 employment, employment history, bank account number, credit card  
389 number, debit card number, or any other financial information,  
390 medical information, or health insurance information.

391 c. Characteristics of protected classifications under state  
392 or federal law.

393 d. Commercial information, including records of personal  
394 property, products or services purchased, obtained, or  
395 considered, or other purchasing or consuming histories or  
396 tendencies.

397 e. Biometric information.

398 f. Internet or other electronic network activity  
399 information, including, but not limited to, browsing history,  
400 search history, and information regarding a consumer's  
401 interaction with an Internet website, application, or  
402 advertisement.

403 g. Geolocation data.

404 h. Audio, electronic, visual, thermal, olfactory, or  
405 similar information.

406 i. Inferences drawn from any of the information identified

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407 in this paragraph to create a profile about a consumer  
408 reflecting the consumer's preferences, characteristics,  
409 psychological trends, predispositions, behavior, attitudes,  
410 intelligence, abilities, and aptitudes.

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

412 a. Consumer employment contact information, including a  
413 position name or title, employment qualifications, emergency  
414 contact information, business telephone number, business  
415 electronic mail address, employee benefit information, and  
416 similar information used solely in an employment context.

417 b. Deidentified or aggregate consumer information.

418 c. Publicly and lawfully available information reasonably  
419 believed to be made available to the general public in a lawful  
420 manner and without legal restrictions:

421 (I) From federal, state, or local government records.

422 (II) By a widely distributed media source.

423 (III) By the consumer or by someone to whom the consumer  
424 disclosed the information unless the consumer has purposely and  
425 effectively restricted the information to a certain audience on  
426 a private account.

427 (m) "Precise geolocation data" means information from  
428 technology, such as global positioning system level latitude and  
429 longitude coordinates or other mechanisms, which directly  
430 identifies the specific location of a natural person with  
431 precision and accuracy within a radius of 1,750 feet. The term  
432 does not include information generated by the transmission of  
433 communications or any information generated by or connected to  
434 advance utility metering infrastructure systems or equipment for  
435 use by a utility.

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436 (n) "Processing" means any operation or set of operations  
437 performed on personal information or on sets of personal  
438 information, regardless of whether by automated means.

439 (o) "Processor" means a sole proprietorship, partnership,  
440 limited liability company, corporation, association, or other  
441 legal entity that is organized or operated for the profit or  
442 financial benefit of its shareholders or other owners, that  
443 processes information on behalf of a controller and to which the  
444 controller discloses a consumer's personal information pursuant  
445 to a written contract, provided that the contract prohibits the  
446 entity receiving the information from retaining, using, or  
447 disclosing the personal information for any purpose other than  
448 for the specific purpose of performing the services specified in  
449 the contract for the controller, as authorized by this section.

450 (p) "Sell" means to sell, rent, release, disclose,  
451 disseminate, make available, transfer, or otherwise communicate  
452 orally, in writing, or by electronic or other means, a  
453 consumer's personal information or information that relates to a  
454 group or category of consumers by a controller to another  
455 controller or a third party for monetary or other valuable  
456 consideration.

457 (q) "Share" means to share, rent, release, disclose,  
458 disseminate, make available, transfer, or access a consumer's  
459 personal information for advertising or marketing. The term  
460 includes:

- 461 1. Allowing a third party to advertise or market to a  
462 consumer based on a consumer's personal information without  
463 disclosure of the personal information to the third party.  
464 2. Monetary transactions, nonmonetary transactions, and



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465 transactions for other valuable consideration between a  
466 controller and a third party for advertising or marketing.

467 (r) "Targeted advertising" means marketing to a consumer or  
468 displaying an advertisement to a consumer when the advertisement  
469 is selected based on personal information used to predict such  
470 consumer's preferences or interests.

471 (s) "Third party" means a person who is not a controller or  
472 a processor.

473 (t) "Unique identifier" means a persistent identifier that  
474 can be used to recognize a consumer, a family, or a device that  
475 is linked to a consumer or a family, over time and across  
476 different services, including, but not limited to, a device  
477 identifier; an Internet Protocol address; cookies, beacons,  
478 pixel tags, mobile ad identifiers, or similar technology; a  
479 customer number, unique pseudonym, or user alias; telephone  
480 numbers, or other forms of persistent or probabilistic  
481 identifiers that can be used to identify a particular consumer,  
482 family, or device that is linked to a consumer or family. As  
483 used in this paragraph, the term "family" means a custodial  
484 parent or guardian and any minor children of whom the parent or  
485 guardian has custody, or a household as defined in paragraph  
486 (k).

487 (u) "Verifiable consumer request" means a request made by a  
488 consumer, by a parent or guardian on behalf of a consumer who is  
489 a minor child, or by a person authorized by the consumer to act  
490 on the consumer's behalf, that the controller can reasonably  
491 verify to be the consumer, pursuant to rules adopted by the  
492 department. A verifiable consumer request is presumed to have  
493 been made when requested through an established account using

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494 the controller's established security features to access the  
495 account through communication features offered to consumers, but  
496 a controller may not require the consumer to create or have an  
497 account with the controller in order to make a verifiable  
498 consumer request.

499 (v) "Voice recognition feature" means the function of a  
500 device which enables the collection, recording, storage,  
501 analysis, transmission, interpretation, or other use of spoken  
502 words or other sounds.

503 (3) CONTROLLER REQUIREMENTS; CONSUMER DATA COLLECTION  
504 REQUIREMENTS AND RESPONSIBILITIES.—

505 (a) A controller may not collect, without the consumer's  
506 authorization, a consumer's precise geolocation data or personal  
507 information through the operation of a voice recognition  
508 feature.

509 (b) A controller that operates a search engine shall  
510 provide a consumer with information of how the controller's  
511 search engine algorithm prioritizes or deprioritizes political  
512 partisanship or political ideology in its search results.

513 (c) A controller that collects personal information about  
514 consumers shall maintain an up-to-date online privacy policy and  
515 make such policy available on its homepage. The online privacy  
516 policy must include the following information:

517 1. Any Florida-specific consumer privacy rights.

518 2. A list of the types and categories of personal  
519 information that the controller collects, sells, or shares, or  
520 has collected, sold, or shared, about consumers.

521 3. The consumer's right to request deletion or correction  
522 of certain personal information.

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523 4. The consumer's right to opt out of the sale or sharing  
524 to third parties.

525 (d) A controller that collects personal information from  
526 the consumer shall, at or before the point of collection,  
527 inform, or direct the processor to inform, consumers of the  
528 categories of personal information to be collected and the  
529 purposes for which such categories of personal information will  
530 be used.

531 (e) A controller may not collect additional categories of  
532 personal information or use personal information collected for  
533 additional purposes without providing the consumer with notice  
534 consistent with this section.

535 (f) A controller that collects a consumer's personal  
536 information shall implement and maintain reasonable security  
537 procedures and practices appropriate to the nature of the  
538 personal information to protect such personal information from  
539 unauthorized or illegal access, destruction, use, modification,  
540 or disclosure. A controller shall require any processors to  
541 implement and maintain the same or similar security procedures  
542 and practices for personal information.

543 (g) A controller shall adopt and implement a retention  
544 schedule that prohibits the use or retention of personal  
545 information not subject to an exemption by the controller or  
546 processor after the satisfaction of the initial purpose for  
547 which such information was collected or obtained, after the  
548 expiration or termination of the contract pursuant to which the  
549 information was collected or obtained, or 2 years after the  
550 consumer's last interaction with the controller. This paragraph  
551 does not apply to personal information reasonably used or

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552 retained to do any of the following:

553 1. Fulfill the terms of a written warranty or product  
554 recall conducted in accordance with federal law.

555 2. Provide a good or service requested by the consumer, or  
556 reasonably anticipate the request of such good or service within  
557 the context of a controller's ongoing business relationship with  
558 the consumer.

559 3. Detect security threats or incidents; protect against  
560 malicious, deceptive, fraudulent, unauthorized, or illegal  
561 activity or access; or prosecute those responsible for such  
562 activity or access.

563 4. Debug to identify and repair errors that impair existing  
564 intended functionality.

565 5. Engage in public or peer-reviewed scientific,  
566 historical, or statistical research in the public interest which  
567 adheres to all other applicable ethics and privacy laws when the  
568 controller's deletion of the information is likely to render  
569 impossible or seriously impair the achievement of such research,  
570 if the consumer has provided informed consent.

571 6. Enable solely internal uses that are reasonably aligned  
572 with the expectations of the consumer based on the consumer's  
573 relationship with the controller or that are compatible with the  
574 context in which the consumer provided the information.

575 7. Comply with a legal obligation, including any state or  
576 federal retention laws.

577 8. Protect the controller's interests against existing  
578 disputes, legal action, or governmental investigations.

579 9. Assure the physical security of persons or property.

580 (4) CONSUMER RIGHT TO REQUEST COPY OF PERSONAL INFORMATION

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581 COLLECTED, SOLD, OR SHARED.—

582 (a) A consumer has the right to request that a controller  
583 that collects, sells, or shares personal information about the  
584 consumer disclose the following to the consumer:

585 1. The specific pieces of personal information which have  
586 been collected about the consumer.

587 2. The categories of sources from which the consumer's  
588 personal information was collected.

589 3. The specific pieces of personal information about the  
590 consumer which were sold or shared.

591 4. The third parties to which the personal information  
592 about the consumer was sold or shared.

593 5. The categories of personal information about the  
594 consumer which were disclosed to a processor.

595 (b) A controller that collects, sells, or shares personal  
596 information about a consumer shall disclose the information  
597 specified in paragraph (a) to the consumer upon receipt of a  
598 verifiable consumer request.

599 (c) This subsection does not require a controller to  
600 retain, reidentify, or otherwise link any data that, in the  
601 ordinary course of business is not maintained in a manner that  
602 would be considered personal information.

603 (d) The controller shall deliver to a consumer the  
604 information required under this subsection or act on a request  
605 made under this subsection by a consumer free of charge within  
606 45 calendar days after receiving a verifiable consumer request.  
607 The response period may be extended once by 45 additional  
608 calendar days when reasonably necessary, provided the controller  
609 informs the consumer of any such extension within the initial

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610 45-day response period and the reason for the extension. The  
611 information must be delivered in a portable and, to the extent  
612 technically feasible, readily usable format that allows the  
613 consumer to transmit the data to another entity without  
614 hindrance. A controller may provide the data to the consumer in  
615 a manner that does not disclose the controller's trade secrets.  
616 A controller is not obligated to provide information to the  
617 consumer if the consumer or a person authorized to act on the  
618 consumer's behalf does not provide verification of identity or  
619 verification of authorization to act with the permission of the  
620 consumer.

621 (e) A controller may provide personal information to a  
622 consumer at any time, but is not required to provide personal  
623 information to a consumer more than twice in a 12-month period.

624 (f) This subsection does not apply to personal information  
625 relating solely to households.

626 (5) RIGHT TO HAVE PERSONAL INFORMATION DELETED OR  
627 CORRECTED.—

628 (a) A consumer has the right to request that a controller  
629 delete any personal information about the consumer or about the  
630 consumer's child younger than 18 years of age which the  
631 controller has collected.

632 1. A controller that receives a verifiable consumer request  
633 to delete the consumer's personal information shall delete the  
634 consumer's personal information from its records and direct any  
635 processors to delete such information within 90 calendar days  
636 after receipt of the verifiable consumer request.

637 2. A controller or a processor acting pursuant to its  
638 contract with the controller may not be required to comply with

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639 a consumer's request to delete the consumer's personal  
640 information if it is reasonably necessary for the controller or  
641 processor to maintain the consumer's personal information to do  
642 any of the following:

643 a. Complete the transaction for which the personal  
644 information was collected.

645 b. Fulfill the terms of a written warranty or product  
646 recall conducted in accordance with federal law.

647 c. Provide a good or service requested by the consumer, or  
648 reasonably anticipate the request of such good or service within  
649 the context of a controller's ongoing business relationship with  
650 the consumer, or otherwise perform a contract between the  
651 controller and the consumer.

652 d. Detect security threats or incidents; protect against  
653 malicious, deceptive, fraudulent, unauthorized, or illegal  
654 activity or access; or prosecute those responsible for such  
655 activity or access.

656 e. Debug to identify and repair errors that impair existing  
657 intended functionality.

658 f. Engage in public or peer-reviewed scientific,  
659 historical, or statistical research in the public interest which  
660 adheres to all other applicable ethics and privacy laws when the  
661 controller's deletion of the information is likely to render  
662 impossible or seriously impair the achievement of such research,  
663 if the consumer has provided informed consent.

664 g. Enable solely internal uses that are reasonably aligned  
665 with the expectations of the consumer based on the consumer's  
666 relationship with the controller or that are compatible with the  
667 context in which the consumer provided the information.

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668 h. Comply with a legal obligation, including any state or  
669 federal retention laws.

670 i. Protect the controller's interests against existing  
671 disputes, legal action, or governmental investigations.

672 j. Assure the physical security of persons or property.

673 (b) A consumer has the right to request that a controller  
674 correct inaccurate personal information maintained by the  
675 controller about the consumer or about the consumer's child  
676 younger than 18 years of age. A controller that receives a  
677 verifiable consumer request to correct inaccurate personal  
678 information shall use commercially reasonable efforts to correct  
679 the inaccurate personal information as directed by the consumer  
680 and shall direct any processors to correct such information  
681 within 90 calendar days after receipt of the verifiable consumer  
682 request. If a controller maintains a self-service mechanism to  
683 allow a consumer to correct certain personal information, the  
684 controller may require the consumer to correct their own  
685 personal information through such mechanism. A controller or a  
686 processor acting pursuant to its contract with the controller  
687 may not be required to comply with a consumer's request to  
688 correct the consumer's personal information if it is reasonably  
689 necessary for the controller or processor to maintain the  
690 consumer's personal information to do any of the following:

691 1. Complete the transaction for which the personal  
692 information was collected.

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

695 3. Detect security threats or incidents; protect against  
696 malicious, deceptive, fraudulent, unauthorized, or illegal



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697 activity or access; or prosecute those responsible for such  
698 activity or access.

699 4. Debug to identify and repair errors that impair existing  
700 intended functionality.

701 5. Enable solely internal uses that are reasonably aligned  
702 with the expectations of the consumer based on the consumer's  
703 relationship with the controller or that are compatible with the  
704 context in which the consumer provided the information.

705 6. Comply with a legal obligation, including any state or  
706 federal retention laws.

707 7. Protect the controller's interests against existing  
708 disputes, legal action, or governmental investigations.

709 8. Assure the physical security of persons or property.

710 (6) RIGHT TO OPT OUT OF THE SALE OR SHARING OF PERSONAL  
711 INFORMATION.-

712 (a) A consumer has the right at any time to direct a  
713 controller not to sell or share the consumer's personal  
714 information to a third party. This right may be referred to as  
715 the right to opt out.

716 (b) Notwithstanding paragraph (a), a controller may not  
717 sell or share the personal information of a minor consumer if  
718 the controller has actual knowledge that the consumer is not 18  
719 years of age or older. However, if a consumer who is between 13  
720 and 18 years of age, or if the parent or guardian of a consumer  
721 who is 12 years of age or younger, has affirmatively authorized  
722 the sale or sharing of such consumer's personal information,  
723 then a controller may sell or share such information in  
724 accordance with this section. A controller that willfully  
725 disregards the consumer's age is deemed to have actual knowledge

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726 of the consumer's age. A controller that complies with the  
727 verifiable parental consent requirements of the Children's  
728 Online Privacy Protection Act, 15 U.S.C. s. 6501 et seq., shall  
729 be deemed compliant with any obligation to obtain parental  
730 consent.

731 (c) A controller that has received direction from a  
732 consumer opting out of the sale or sharing of the consumer's  
733 personal information is prohibited from selling or sharing the  
734 consumer's personal information beginning 4 calendar days after  
735 receipt of such direction, unless the consumer subsequently  
736 provides express authorization for the sale or sharing of the  
737 consumer's personal information.

738 (7) FORM TO OPT OUT OF SALE OR SHARING OF PERSONAL  
739 INFORMATION.—

740 (a) A controller shall:

741 1. In a form that is reasonably accessible to consumers,  
742 provide a clear and conspicuous link on the controller's  
743 Internet homepage, entitled "Do Not Sell or Share My Personal  
744 Information," to an Internet webpage that enables a consumer, a  
745 parent or guardian of a minor who is a consumer, or a person  
746 authorized by the consumer, to opt out of the sale or sharing of  
747 the consumer's personal information. A controller may not  
748 require a consumer to create an account in order to direct the  
749 controller not to sell or share the consumer's personal  
750 information. A controller may accept a request to opt out  
751 received through a user-enabled global privacy control, such as  
752 a browser plug-in or privacy setting, device setting, or other  
753 mechanism, which communicates or signals the consumer's choice  
754 to opt out.

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755 2. For consumers who opted out of the sale or sharing of  
756 their personal information, respect the consumer's decision to  
757 opt out for at least 12 months before requesting that the  
758 consumer authorize the sale or sharing of the consumer's  
759 personal information.

760 3. Use any personal information collected from the consumer  
761 in connection with the submission of the consumer's opt-out  
762 request solely for the purposes of complying with the opt-out  
763 request.

764 (b) A consumer may authorize another person to opt out of  
765 the sale or sharing of the consumer's personal information on  
766 the consumer's behalf pursuant to rules adopted by the  
767 department.

768 (8) ACTIONS RELATED TO CONSUMERS WHO EXERCISE PRIVACY  
769 RIGHTS.—

770 (a) A controller may not deny goods or services to a  
771 consumer because the consumer exercised any of the consumer's  
772 rights under this section.

773 (b) A controller may charge a consumer who exercised any of  
774 the consumer's rights under this section a different price or  
775 rate, or provide a different level or quality of goods or  
776 services to the consumer, only if that difference is reasonably  
777 related to the value provided to the controller by the  
778 consumer's data or is related to a consumer's voluntary  
779 participation in a financial incentive program, including a bona  
780 fide loyalty, rewards, premium features, discounts, or club card  
781 program offered by the controller.

782 (c) A controller may offer financial incentives, including  
783 payments to consumers as compensation, for the collection,

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784 sharing, sale, or deletion of personal information if the  
785 consumer gives the controller prior consent that clearly  
786 describes the material terms of the financial incentive program.  
787 The consent may be revoked by the consumer at any time.

788 (d) A controller may not use financial incentive practices  
789 that are unjust, unreasonable, coercive, or usurious in nature.

790 (9) CONTRACTS AND ROLES.—

791 (a) Any contract or agreement between a controller and a  
792 processor must:

793 1. Prohibit the processor from selling, sharing, retaining,  
794 using, or disclosing the personal information for any purpose  
795 that violates this section;

796 2. Prohibit the processor from retaining, using, or  
797 disclosing the personal information other than for the purposes  
798 specified in the contract or agreement;

799 3. Prohibit the processor from combining the personal  
800 information that the processor receives from or on behalf of the  
801 controller with personal information that the processor receives  
802 from or on behalf of another person or that the processor  
803 collects from its own interaction with the consumer, provided  
804 that the processor may combine personal information to perform  
805 any purpose specified in the contract or agreement and such  
806 combination is reported to the controller;

807 4. Govern the processor's personal information processing  
808 procedures with respect to processing performed on behalf of the  
809 controller, including processing instructions, the nature and  
810 purpose of processing, the type of information subject to  
811 processing, the duration of processing, and the rights and  
812 obligations of both the controller and processor;

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813 5. Require the processor to return or delete all personal  
814 information under the contract to the controller as requested by  
815 the controller at the end of the provision of services, unless  
816 retention of the information is required by law; and

817 6. Upon request of the controller, require the processor to  
818 make available to the controller all personal information in its  
819 possession under the contract or agreement.

820 (b) Determining whether a person is acting as a controller  
821 or processor with respect to a specific processing of data is a  
822 fact-based determination that depends upon the context in which  
823 personal information is to be processed. The contract between a  
824 controller and processor must reflect their respective roles and  
825 relationships related to handling personal information. A  
826 processor that continues to adhere to a controller's  
827 instructions with respect to a specific processing of personal  
828 information remains a processor.

829 (c) A third party that has collected personal information  
830 from a controller in accordance with this section:

831 1. May not sell or share personal information about a  
832 consumer unless the consumer is provided an opportunity by such  
833 third party to opt out under this section. Once a third party  
834 sells or shares personal information after providing the  
835 opportunity to opt out, the third party becomes a controller  
836 under this section if the entity meets the definition of  
837 controller in subsection (2).

838 2. May use such personal information from a controller to  
839 advertise or market products or services that are produced or  
840 offered directly by such third party.

841 (d) A processor or third party must require any

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842 subcontractor to meet the same obligations of such processor or  
843 third party with respect to personal information.

844 (e) A processor or third party or any subcontractor thereof  
845 who violates any of the restrictions imposed upon it under this  
846 section is liable or responsible for any failure to comply with  
847 this section. A controller that discloses personal information  
848 to a third party or processor in compliance with this section is  
849 not liable or responsible if the person receiving the personal  
850 information uses it without complying with the restrictions  
851 under this section if, provided that at the time of disclosing  
852 the personal information, the controller does not have actual  
853 knowledge or reason to believe that the person does not intend  
854 to comply with this section.

855 (f) Any provision of a contract or agreement of any kind  
856 that waives or limits in any way a consumer's rights under this  
857 section, including, but not limited to, any right to a remedy or  
858 means of enforcement, is deemed contrary to public policy and is  
859 void and unenforceable. This section does not prevent a consumer  
860 from declining to exercise the consumer's rights under this  
861 section.

862 (10) ENFORCEMENT AND IMPLEMENTATION BY THE DEPARTMENT.—

863 (a) Any violation of this section is an unfair and  
864 deceptive trade practice actionable under part II of chapter 501  
865 solely by the department against a controller, processor, or  
866 third party. If the department has reason to believe that any  
867 controller, processor, or third party is in violation of this  
868 section, the department, as the enforcing authority, may bring  
869 an action against such controller, processor, or third party for  
870 an unfair or deceptive act or practice. For the purpose of

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871 bringing an action pursuant to this section, ss. 501.211 and  
872 501.212 do not apply. In addition to other remedies under part  
873 II of chapter 501, the department may collect a civil penalty of  
874 up to \$50,000 per violation of this section. Civil penalties may  
875 be tripled for the following violations:

876 1. Any violation involving a Florida consumer who the  
877 controller, processor, or third party has actual knowledge is 18  
878 years of age or younger.

879 2. Failure to delete or correct the consumer's personal  
880 information pursuant to this section after receiving a  
881 verifiable consumer request or directions from a controller to  
882 delete or correct such personal information unless the  
883 controller, processor, or third party qualifies for an exception  
884 to the requirements to delete or correct such personal  
885 information under this section.

886 3. Continuing to sell or share the consumer's personal  
887 information after the consumer chooses to opt out under this  
888 section.

889 (b) After the department has notified a controller,  
890 processor, or third party in writing of an alleged violation,  
891 the department may in its discretion grant a 45-day period to  
892 cure the alleged violation. The 45-day cure period does not  
893 apply to a violation of subparagraph (a)1. The department may  
894 consider the number and frequency of violations, the substantial  
895 likelihood of injury to the public, and the safety of persons or  
896 property when determining whether to grant 45 calendar days to  
897 cure and the issuance of a letter of guidance. If the violation  
898 is cured to the satisfaction of the department and proof of such  
899 cure is provided to the department, the department may not bring

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900 an action for the alleged violation but in its discretion may  
901 issue a letter of guidance that indicates that the controller,  
902 processor, or person will not be offered a 45-day cure period  
903 for any future violations. If the controller, processor, or  
904 third party fails to cure the violation within 45 calendar days,  
905 the department may bring an action against the controller,  
906 processor, or third party for the alleged violation.

907 (c) Any action brought by the department may be brought  
908 only on behalf of a Florida consumer.

909 (d) By February 1 of each year, the department shall submit  
910 a report to the President of the Senate and the Speaker of the  
911 House of Representatives describing any actions taken by the  
912 department to enforce this section. Such report must be made  
913 publicly available on the department's website. The report must  
914 include statistics and relevant information detailing:

915 1. The number of complaints received and the categories or  
916 types of violations alleged by the complainant;

917 2. The number and type of enforcement actions taken and the  
918 outcomes of such actions, including the amount of penalties  
919 issued and collected;

920 3. The number of complaints resolved without the need for  
921 litigation; and

922 4. The status of the development and implementation of  
923 rules to implement this section.

924 (e) The department may adopt rules to implement this  
925 section, including standards for verifiable consumer requests,  
926 enforcement, data security, and authorized persons who may act  
927 on a consumer's behalf.

928 (f) The department may collaborate and cooperate with other



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929 enforcement authorities of the federal government or other state  
930 governments concerning consumer data privacy issues and consumer  
931 data privacy investigations if such enforcement authorities have  
932 restrictions governing confidentiality at least as stringent as  
933 the restrictions provided in this section.

934 (g) Liability for a tort, contract claim, or consumer  
935 protection claim that is unrelated to an action brought under  
936 this subsection does not arise solely from the failure of a  
937 controller, processor, or third party to comply with this  
938 section.

939 (h) This section does not establish a private cause of  
940 action.

941 (i) The department may employ or use the legal services of  
942 outside counsel and the investigative services of outside  
943 personnel to fulfill the obligations of this section.

944 (11) JURISDICTION.—For purposes of bringing an action  
945 pursuant to subsection (10), any person who meets the definition  
946 of controller as defined in this section which collects, shares,  
947 or sells the personal information of Florida consumers is  
948 considered to be both engaged in substantial and not isolated  
949 activities within this state and operating, conducting, engaging  
950 in, or carrying on a business, and doing business in this state,  
951 and is therefore subject to the jurisdiction of the courts of  
952 this state.

953 (12) PREEMPTION.—This section is a matter of statewide  
954 concern and supersedes all rules, regulations, codes,  
955 ordinances, and other laws adopted by a city, county, city and  
956 county, municipality, or local agency regarding the collection,  
957 processing, sharing, or sale of consumer personal information by

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958 a controller or processor. The regulation of the collection,  
959 processing, sharing, or sale of consumer personal information by  
960 a controller or processor is preempted to the state.

961 Section 3. Paragraph (g) of subsection (1) of section  
962 501.171, Florida Statutes, is amended to read:

963 501.171 Security of confidential personal information.—

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

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

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

969 (I) A social security number;

970 (II) A driver license or identification card number,  
971 passport number, military identification number, or other  
972 similar number issued on a government document used to verify  
973 identity;

974 (III) A financial account number or credit or debit card  
975 number, in combination with any required security code, access  
976 code, or password that is necessary to permit access to an  
977 individual's financial account;

978 (IV) Any information regarding an individual's medical  
979 history, mental or physical condition, or medical treatment or  
980 diagnosis by a health care professional; ~~or~~

981 (V) An individual's health insurance policy number or  
982 subscriber identification number and any unique identifier used  
983 by a health insurer to identify the individual;

984 (VI) An individual's biometric information or genetic  
985 information as defined in s. 501.173(2); or

986 (VII) Any information regarding an individual's

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987 geolocation.

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

991 2. The term does not include information about an  
992 individual that has been made publicly available by a federal,  
993 state, or local governmental entity. The term also does not  
994 include information that is encrypted, secured, or modified by  
995 any other method or technology that removes elements that  
996 personally identify an individual or that otherwise renders the  
997 information unusable.

998 Section 4. Subsection (1) of section 16.53, Florida  
999 Statutes, is amended, and subsection (8) is added to that  
1000 section, to read:

1001 16.53 Legal Affairs Revolving Trust Fund.—

1002 (1) There is created in the State Treasury the Legal  
1003 Affairs Revolving Trust Fund, from which the Legislature may  
1004 appropriate funds for the purpose of funding investigation,  
1005 prosecution, and enforcement by the Attorney General of the  
1006 provisions of the Racketeer Influenced and Corrupt Organization  
1007 Act, the Florida Deceptive and Unfair Trade Practices Act, the  
1008 Florida False Claims Act, ~~or~~ state or federal antitrust laws, or  
1009 s. 501.173.

1010 (8) All moneys recovered by the Attorney General for  
1011 attorney fees, costs, and penalties in an action for a violation  
1012 of s. 501.173 must be deposited in the fund.

1013 Section 5. This act shall take effect July 1, 2023.