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LEGISLATIVE ACTION

Senate

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House

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Floor: 1a/AD/2R

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04/12/2023 03:50 PM

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Senator Bradley moved the following:

1 **Senate Amendment to Amendment (937544) (with title**
2 **amendment)**

3
4 Delete lines 27 - 162

5 and insert:

6 (b) Use covered information, including persistent unique
7 identifiers, created or gathered by the operator's site,
8 service, or application to amass a profile of a student, except
9 in furtherance of K-12 school purposes. The term "amass a
10 profile" does not include the collection and retention of
11 account information that remains under the control of the



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12 student or the student's parent or guardian or K-12 school.

13 (c) Share, sell, or rent a student's information, including
14 covered information. This paragraph does not apply to the
15 purchase, merger, or other acquisition of an operator by a third
16 party, if the third party complies with this section regarding
17 previously acquired student information, or to a national
18 assessment provider if the provider obtains the express written
19 consent of the parent or student, given in response to clear and
20 conspicuous notice, solely to provide access to employment,
21 educational scholarships or financial aid, or postsecondary
22 educational opportunities.

23 (d) Except as otherwise provided in subsection (4),
24 disclose covered information, unless the disclosure is made for
25 any of the following purposes:

26 1. In furtherance of the K-12 school purpose of the site,
27 service, or application, if the recipient of the covered
28 information disclosed under this subparagraph does not further
29 disclose the information.

30 2. Disclosure as required by state or federal law.

31 3. To comply with the order of a court or quasi-judicial
32 entity.

33 4. To protect the safety or integrity of users of the site
34 or others or the security of the site, service, or application.

35 5. For a school, educational, or employment purpose
36 requested by the student or the student's parent or guardian,
37 provided that the information is not used or further disclosed
38 for any other purpose.

39 6. To a third party, if the operator contractually
40 prohibits the third party from using any covered information for



41 any purpose other than providing the contracted service to or on
42 behalf of the operator, prohibits the third party from
43 disclosing any covered information provided by the operator with
44 subsequent third parties, and requires the third party to
45 implement and maintain reasonable security procedures and
46 practices. An operator may not disclose covered information
47 relating to any contracted services provided in paragraph (a),
48 paragraph (b), or paragraph (c).

49 (3) An operator shall do all of the following:

50 (a) Collect no more covered information than is reasonably
51 necessary to operate an Internet website, online service, online
52 application, or mobile application with actual knowledge that
53 the site, service, or application is used primarily for K-12
54 school purposes, or the site, service, or application was
55 designed and marketed for K-12 school purposes.

56 (b) Implement and maintain reasonable security procedures
57 and practices appropriate to the nature of the covered
58 information which are designed to protect it from unauthorized
59 access, destruction, use, modification, or disclosure.

60 (c) Unless a parent or guardian expressly consents to the
61 operator retaining a student's covered information, delete the
62 covered information at the conclusion of the course or
63 corresponding program and no later than 90 days after a student
64 is no longer enrolled in a school within the district.

65 (4) An operator may use or disclose covered information of
66 a student under any of the following circumstances:

67 (a) If federal or state law requires the operator to
68 disclose the information, and the operator complies with federal
69 or state law, as applicable, in protecting and disclosing that



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70 information.

71 (b) If the covered information is disclosed to a state
72 educational agency or the student's local educational agency for
73 K-12 school purposes, as allowed under state or federal law.

74 (c) If the covered information is disclosed to a state or
75 local educational agency, including K-12 schools and school
76 districts, for K-12 school purposes, as allowed under state or
77 federal law.

78 (5) This section does not prohibit an operator from doing
79 any of the following:

80 (a) Using covered information to improve educational
81 products, if that information is not associated with an
82 identified student within the operator's site, service, or
83 application, or other sites, services, or applications owned by
84 the operator.

85 (b) Using covered information that is not associated with
86 an identified student to demonstrate the effectiveness of the
87 operator's products or services, including use in their
88 marketing.

89 (c) Sharing covered information that is not associated with
90 an identified student for the development and improvement of
91 educational sites, services, or applications.

92 (d) Using recommendation engines to recommend to a student
93 any of the following:

94 1. Additional content relating to an educational, an
95 employment, or any other learning opportunity purpose within an
96 online site, service, or application, if the recommendation is
97 not determined in whole or in part by payment or other
98 consideration from a third party.



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99 2. Additional services relating to an educational, an
100 employment, or any other learning opportunity purpose within an
101 online site, service, or application, if the recommendation is
102 not determined in whole or in part by payment or other
103 consideration from a third party.

104 (e) Responding to a student's request for information or
105 feedback without the information or response being determined in
106 whole or in part by payment or other consideration from a third
107 party.

108 (6) This section does not do any of the following:

109 (a) Limit the authority of a law enforcement agency to
110 obtain any content or information from an operator as authorized
111 by law or under a court order.

112 (b) Limit the ability of an operator to use student data,
113 including covered information, for adaptive learning or
114 customized student learning purposes.

115 (c) Apply to general audience Internet websites, general
116 audience online services, general audience online applications,
117 or general audience mobile applications, even if login
118 credentials created for an operator's site, service, or
119 application may be used to access those general audience sites,
120 services, or applications.

121 (d) Limit service providers from providing Internet
122 connectivity to schools or students and their families.

123 (e) Prohibit an operator of an Internet website, online
124 service, online application, or mobile application from
125 marketing educational products directly to parents, if such
126 marketing did not result from the use of covered information
127 obtained by the operator through the provision of services



128 covered under this section.

129 (f) Impose a duty upon a provider of an electronic store,
130 gateway, marketplace, or other means of purchasing or
131 downloading software or applications to review or enforce
132 compliance with this section on such software or applications.

133 (g) Impose a duty upon a provider of an interactive
134 computer service to review or enforce compliance with this
135 section by third-party content providers.

136 (h) Prohibit students from downloading, exporting,
137 transferring, saving, or maintaining their own student data or
138 documents.

139 (7) Any violation of this section is a deceptive and unfair
140 trade practice and constitutes a violation of the Florida
141 Deceptive and Unfair Trade Practices Act, part II of chapter
142 501.

143
144 The State Board of Education may adopt rules to implement this
145 section.

146
147 ===== T I T L E A M E N D M E N T =====

148 And the title is amended as follows:

149 Delete lines 168 - 169

150 and insert:

151 construction; providing for enforcement under the
152 Florida Deceptive and Unfair Trade Practices Act;
153 authorizing the State Board of Education to adopt
154 rules; providing an effective date.