

1 used singly or in combination with each other or with other
2 identifying data to establish individual identity. "Biometric
3 information" includes imagery of the iris, retina, fingerprint,
4 face, hand, palm, or vein patterns; voice recordings from which
5 an identifier template, such as a faceprint, minutiae template,
6 or voiceprint, can be extracted; and keystroke patterns or
7 rhythms, gait patterns or rhythms, and sleep, health, or
8 exercise data that contain identifying information.

9 "Business" has the same meaning as in section 487J-1.

10 "Collect", "collected", or "collection" means buying,
11 renting, gathering, obtaining, receiving, or accessing any
12 personal information pertaining to a consumer by any means,
13 including receiving information from the consumer, either
14 actively or passively, or by observing the consumer's behavior.

15 "Consumer" means an individual residing in the State.

16 "Data broker" means a business, or unit or units of a
17 business, separately or together, that knowingly collects and
18 sells or licenses to third parties the personal information of a
19 consumer with whom the business does not have a direct
20 relationship. "Data broker" does not include:



1 (1) An entity to the extent that it is covered by the
2 federal Fair Credit Reporting Act, title 15 United
3 States Code section 1681 et seq.;

4 (2) An entity to the extent that it is covered by the
5 Gramm-Leach-Bliley Act, Public Law 106-102, and
6 implementing regulations; or

7 (3) An entity to the extent that it is covered by
8 chapter 431, article 3A.

9 "Deidentified" means information that cannot reasonably
10 identify, relate to, describe, be capable of being associated
11 with, or be linked, directly or indirectly, to a particular
12 consumer.

13 "Device" means any physical object that is capable of
14 connecting to the Internet, directly or indirectly, or to
15 another device.

16 "Direct relationship" means a relationship, past or
17 present, between a consumer and a business in which the consumer
18 is: a customer, client, subscriber, or user of the business's
19 goods or services; employee, contractor, or agent of the
20 business; investor in the business; or donor to the business.

21 "Direct relationship" does not include the following activities



1 conducted by a business, or the collection and sale or licensing
2 of personal information incidental to conducting these
3 activities:

4 (1) Developing or maintaining third-party e-commerce or
5 application platforms;

6 (2) Providing directory assistance or directory
7 information services, including name, address, and
8 telephone number, on behalf of or as a function of a
9 telecommunications carrier;

10 (3) Providing publicly available information related to a
11 consumer's business or profession; and

12 (4) Providing publicly available information via real-time
13 or near real-time alert services for health or safety
14 purposes.

15 "Family" means a custodial parent or guardian and any minor
16 children over which the parent or guardian has custody.

17 "License" means to grant one's business' access to, or
18 distribution of, data to another business in exchange for
19 consideration. "License" does not include the sharing of data
20 for the sole benefit of the business providing the data, where
21 that business maintains sole control over the use of the data.



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1 "Office" means the office of consumer protection.

2 "Person" means an individual, proprietorship, firm,
3 partnership, joint venture, syndicate, business trust, company,
4 corporation, limited liability company, association, committee,
5 or any other organization or group of persons acting in concert.

6 "Personal information" means information that identifies,
7 relates to, describes, is capable of being associated with, or
8 could reasonably be linked, directly or indirectly, with a
9 particular consumer or household. Personal information includes
10 the following:

11 (1) Identifiers such as a real name, alias, postal
12 address, unique personal identifier, online identifier
13 internet protocol address, electronic mail address,
14 account name, social security number, driver's license
15 number, passport number, or other similar identifiers;

16 (2) Personal information as defined in section 487N-1;

17 (3) Characteristics of protected classifications under
18 federal or state law;

19 (4) Commercial information, including records of personal
20 property, products or services purchased, obtained, or



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1 considered, or other purchasing or consuming histories
2 or tendencies;

3 (5) Biometric information;

4 (6) Internet or other electronic network activity
5 information, including browsing history, search
6 history, and information regarding a consumer's
7 interaction with a website, application, or
8 advertisement;

9 (7) Geolocation information;

10 (8) Audio, electronic, visual, thermal, olfactory, or
11 similar information;

12 (9) Professional or employment-related information;

13 (10) Education information, defined as information that is
14 not publicly available personally identifiable
15 information as defined in the Family Educational
16 Rights and Privacy Act (20 U.S.C. 1232g; 34 C.F.R.
17 part 99); and

18 (11) Inferences drawn from any of the information
19 identified in this chapter to create a profile about a
20 consumer reflecting the consumer's preferences,
21 characteristics, psychological trends, preferences,



1 predispositions, behavior, attitudes, intelligence,
2 abilities, and aptitudes.

3 "Publicly available" means available information from
4 federal, state, or local government records, including any
5 conditions associated with the information. "Publicly
6 available" does not include:

- 7 (1) Biometric information collected by a business about a
8 consumer without the consumer's knowledge; and
9 (2) Consumer information that is deidentified or aggregate
10 consumer information.

11 "Sell", "selling", "sale", or "sold" means selling,
12 renting, releasing, disclosing, disseminating, making available,
13 transferring, or otherwise communicating orally, in writing, or
14 by electronic or other means, a consumer's personal information
15 by the business to another business or a third party for
16 monetary or other valuable consideration.

17 "Unique personal identifier" means a persistent identifier
18 that can be used to recognize a consumer, family, or device that
19 is linked to a consumer or family, over time and across
20 different services, including but not limited to a device
21 identifier; an internet protocol address; cookies, beacons,



1 pixel tags, mobile ad identifiers, or similar technology;
2 customer number, unique pseudonym, or user alias; telephone
3 numbers, or other forms of persistent or probabilistic
4 identifiers that can be used to identify a particular consumer
5 or device.

6 "Verifiable consumer request" means a request made by a
7 consumer, or on behalf of the consumer's minor child, whom the
8 business verifies is a consumer of the business's services.

9 **PART II. DATA BROKERS**

10 **§ -21 Annual registration.** (a) On or before January 31
11 of each year following a year in which a business meets the
12 definition of data broker, a data broker shall:

- 13 (1) Register with the office;
- 14 (2) Pay a registration fee in an amount determined by the
15 office, to be deposited into the data brokers'
16 registry special fund; and
- 17 (3) Provide the following information to the office:
- 18 (A) The name and primary physical, electronic mail,
19 and internet addresses of the data broker;
- 20 (B) If the data broker permits a consumer to opt out
21 of the data broker's collection of personal



1 information, opt out of its databases, or opt out
2 of certain sales of data:

- 3 (i) The method for requesting an opt-out;
- 4 (ii) Which activities and sales the opt-out
5 applies to; and
- 6 (iii) Whether the data broker permits a consumer
7 to authorize a third party to perform the
8 opt-out on the consumer's behalf;

9 (C) A statement specifying the data collection,
10 databases, or sales activities from which a
11 consumer may not opt out; and

12 (D) Any additional information or explanation the
13 data broker chooses to provide concerning its
14 data collection practices.

15 (b) The office shall create a page on its website where
16 the information provided by data brokers under this chapter
17 shall be accessible to the public.

18 (c) A data broker that fails to register with the office
19 as required by this section shall be liable for administrative
20 fines and costs in an administrative action brought by the
21 office as follows:



1 (1) An administrative fine as determined by the office for
2 each day the data broker fails to register as required
3 by this section;

4 (2) An amount equal to the fees that were due during the
5 period it failed to register; and

6 (3) Expenses incurred by the office in the investigation
7 and administration of the action as the court deems
8 appropriate.

9 (d) Any penalties, fines, fees, and expenses received
10 pursuant to subsection (c) shall be deposited in the data
11 brokers' registry special fund.

12 § -22 **Personal information; deletion.** (a) The office
13 shall establish an accessible deletion mechanism that:

14 (1) Implements and maintains reasonable security
15 procedures and practices, including but not limited to
16 administrative, physical, and technical safeguards
17 appropriate to the nature of the information and the
18 purposes for which the personal information will be
19 used and to protect consumers' personal information
20 from unauthorized use, disclosure, access,
21 destruction, or modification;



1 (2) Allows a consumer, through a single verifiable
2 consumer request, to request that every data broker
3 that maintains any personal information delete any
4 personal information related to that consumer held by
5 the data broker or associated service provider or
6 contractor;

7 (3) Allows a consumer to selectively exclude specific data
8 brokers from a request made under paragraph (2); and

9 (4) Allows a consumer to make a request to alter a
10 previous request made under this subsection after at
11 least forty-five days have passed since the consumer
12 last made a request under this subsection.

13 (b) The accessible deletion mechanism established pursuant
14 to subsection (a) shall meet the following requirements:

15 (1) The accessible deletion mechanism shall allow a
16 consumer to request the deletion of all personal
17 information related to that consumer through a single
18 deletion request;

19 (2) The accessible deletion mechanism shall permit a
20 consumer to securely submit information in one or more



1 privacy-protecting ways determined by the office to
2 aid in the deletion request;

3 (3) The accessible deletion mechanism shall allow data
4 brokers registered with the office to determine
5 whether an individual has submitted a verifiable
6 consumer request to delete the personal information
7 related to that consumer as described in paragraph (1)
8 and shall not allow the disclosure of any additional
9 personal information when the data broker accesses the
10 accessible deletion mechanism, unless otherwise
11 specified in this chapter;

12 (4) The accessible deletion mechanism shall allow a
13 consumer to make a request described in paragraph (1)
14 using an internet service operated by the office;

15 (5) The accessible deletion mechanism shall not charge a
16 consumer to make a request as described in paragraph
17 (1);

18 (6) The accessible deletion mechanism shall allow a
19 consumer to make a request as described in paragraph
20 (1) in any language spoken by any consumer for whom



1 personal information has been collected by data
2 brokers;

3 (7) The accessible deletion mechanism shall be readily
4 accessible and usable by consumers with disabilities;

5 (8) The accessible deletion mechanism shall support the
6 ability of a consumer's authorized agents to aid in
7 the deletion request;

8 (9) The accessible deletion mechanism shall allow the
9 consumer, or the consumer's authorized agent, to
10 verify the status of the consumer's deletion request;
11 and

12 (10) The accessible deletion mechanism shall provide a
13 description of all of the following:

14 (A) The deletion permitted by this section, including
15 but not limited to the actions required by
16 subsections (c), (d), and (e);

17 (B) The process for submitting a deletion request
18 pursuant to this section; and

19 (C) Examples of the types of information that may be
20 deleted.



1 (c) A data broker shall access the accessible deletion
2 mechanism established pursuant to subsection (a) at least once
3 every forty-five days and shall conduct the following:

4 (1) Within forty-five days after receiving a request made
5 pursuant to this section, process all deletion
6 requests made pursuant to this section and delete all
7 personal information related to the consumers making
8 the requests consistent with the requirements of this
9 section;

10 (2) In cases where a data broker denies a consumer request
11 to delete under this chapter because the request
12 cannot be verified, process the request and refrain
13 from selling or sharing the consumer's personal
14 information or using or disclosing the consumer's
15 sensitive personal information; provided that the data
16 broker shall request, after at least twelve months
17 after processing the consumer request, the consumer to
18 authorize the sale or sharing of the consumer's
19 personal information or the use and disclosure of the
20 consumer's sensitive personal information;



1 (3) Direct all service providers or contractors associated
2 with the data broker to delete all personal
3 information in their possession related to the
4 consumers making the requests described in paragraph
5 (1); and

6 (4) Direct all service providers or contractors associated
7 with the data broker to process a request described by
8 paragraph (2) as an opt-out of the sale or sharing of
9 the consumer's personal information.

10 (d) A data broker shall delete all personal information of
11 a consumer at least once every forty-five days pursuant to this
12 section after the consumer has submitted a deletion request and
13 a data broker has deleted the consumer's data pursuant to this
14 section unless the consumer requests otherwise or the deletion
15 is not required pursuant to subsection (f).

16 (e) A data broker shall not sell or share new personal
17 information of the consumer after a consumer has submitted a
18 deletion request and a data broker has deleted the consumer's
19 data pursuant to this section unless the consumer requests
20 otherwise or selling or sharing the personal information is
21 permitted under subsection (d).



1 (f) Notwithstanding subsection (c), a data broker shall
2 not be required to delete a consumer's personal information if
3 either of the following apply:

4 (1) It is reasonably necessary for the data broker to
5 maintain the personal information to:

6 (A) Complete the transaction for which the personal
7 information was collected, fulfill the terms of a
8 written warranty or product recall conducted in
9 accordance with federal law, provide a good or
10 service requested by the consumer, or reasonably
11 anticipated by the consumer within the context of
12 a business' ongoing business relationship with
13 the consumer, or otherwise perform a contract
14 between the business and the consumer;

15 (B) Help to ensure security and integrity to the
16 extent the use of the consumer's personal
17 information is reasonably necessary and
18 proportionate for those purposes;

19 (C) Debug to identify and repair errors that impair
20 existing intended functionality;



- 1 (D) Exercise free speech, ensure the right of another
2 consumer to exercise that consumer's right of
3 free speech, or exercise another right provided
4 for by law;
- 5 (E) Engage in public or peer-reviewed scientific,
6 historical, or statistical research that conforms
7 or adheres to all other applicable ethics and
8 privacy laws, when the business' deletion of the
9 information is likely to render impossible or
10 seriously impair the ability to complete such
11 research, if the consumer has provided informed
12 consent;
- 13 (F) Enable solely internal uses that are reasonably
14 aligned with the expectations of the consumer
15 based on the consumer's relationship with the
16 business and compatible with the context in which
17 the consumer provided the information; or
- 18 (G) Comply with a legal obligation; or
- 19 (2) The deletion is not required to:



- 1 (A) Comply with federal, state, or county laws or
- 2 comply with a court order or subpoena to provide
- 3 information;
- 4 (B) Comply with a civil, criminal, or regulatory
- 5 inquiry, investigation, subpoena, or summons by
- 6 federal, state, or county authorities;
- 7 (C) Cooperate with law enforcement agencies
- 8 concerning conduct or activity that the business,
- 9 service provider, or third party reasonably and
- 10 in good faith believes may violate federal,
- 11 state, or county law;
- 12 (D) Cooperate with a government agency request for
- 13 emergency access to a consumer's personal
- 14 information if a natural person is at risk or
- 15 danger of death or serious physical injury;
- 16 provided that:
- 17 (i) The request is approved by the head of the
- 18 entity for emergency access to a consumer's
- 19 personal information;
- 20 (ii) The request is based on the agency's good
- 21 faith determination that it has a lawful



1 basis to access the information on a
2 nonemergency basis; and
3 (iii) The agency agrees to petition a court for an
4 appropriate order within three days and to
5 destroy the information if that order is not
6 granted;

7 (E) Exercise or defend legal claims;

8 (F) Collect, use, retain, sell, share, or disclose
9 consumers' personal information that is
10 deidentified or aggregate consumer information;

11 (G) Collect, sell, or share a consumer's personal
12 information if every aspect of that commercial
13 conduct takes place wholly outside of the State;
14 or

15 (H) Comply with any federal or state law protecting
16 medical or health information.

17 (g) Personal information described in subsection (f) shall
18 only be used for the purposes described in subsection (f) and
19 shall not be used or disclosed for any other purpose, including
20 but not limited to marketing purposes.



1 (h) Beginning January 1, 2025, and every three years
2 thereafter, a data broker shall undergo an audit by an
3 independent third party to determine compliance with this
4 section. The data broker shall submit a report resulting from
5 the audit and any related materials to the office within five
6 business days of a written request from the office. A data
7 broker shall maintain the report and materials for at least six
8 years following completion of the audit.

9 (i) A data broker required to register under this chapter
10 that fails to comply with the requirements of this section shall
11 be liable for administrative fines and costs in an
12 administrative action brought by the office as follows:

13 (1) An administrative fine as determined by the office for
14 each deletion request for each day the data broker
15 fails to delete information pursuant to this section;
16 and

17 (2) Reasonable expenses incurred by the office in the
18 investigation and administration of the action.

19 (j) Any penalties, fines, fees, and expenses received
20 pursuant to subsection (i) shall be deposited in the data
21 brokers' registry special fund.



1 § -23 **Data brokers' registry special fund.** (a) There
2 is established in the state treasury the data brokers' registry
3 special fund, into which shall be deposited:

4 (1) Registration fees collected pursuant to
5 section -21(a)(2);

6 (2) Any penalties, fines, fees, and expenses received
7 pursuant to sections -21(d) and -22(j);

8 (3) Appropriations made by the legislature for deposit
9 into the special fund;

10 (4) Any grant or donation made to the special fund; and

11 (5) Any interest earned on the balance of the special
12 fund.

13 (b) Moneys in the special fund shall be expended for:

14 (1) The costs of establishing and maintaining the
15 informational website described in section -21(b);

16 (2) The costs incurred by the state courts and the office
17 in connection with enforcing this chapter; and

18 (3) The costs of establishing, maintaining, and providing
19 access to the accessible deletion mechanism described
20 in section -22(a).



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1 § **-24 Rules.** The office shall adopt rules pursuant to
2 chapter 91 necessary to effectuate this chapter.

3 § **-25 Limitation of administrative action.** No
4 administrative action brought pursuant to this chapter alleging
5 a violation of any of the provisions of this chapter shall
6 commence more than five years after the date on which the
7 violation occurred."

8 SECTION 2. This Act shall take effect upon its approval.

9

INTRODUCED BY:



JAN 17 2024



H.B. NO. 1668

Report Title:

Office of Consumer Protection; Consumers; Privacy; Data Brokers;
Personal Information

Description:

Establishes provisions allowing for consumers to request data brokers that maintain their personal information to delete any personal information related to the consumer.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

