

HOUSE BILL 1656

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By: **Delegate McComas**

Introduced and read first time: March 2, 2020

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Privacy and Data Collection**

3 FOR the purpose of requiring certain businesses that collect a consumer's personal
4 information to provide certain notices to the consumer at or before the point of
5 collection; authorizing a consumer to submit a certain request for information to a
6 business that collects the consumer's personal information; requiring a business to
7 comply with a certain request for information in a certain manner and within a
8 certain period of time; establishing certain exceptions to a consumer's request for
9 personal information; requiring a business to establish a means for consumers to
10 submit certain requests; requiring a business to provide certain information to a
11 consumer in a certain manner; prohibiting a business from retaining certain
12 personal information, re-identifying or linking certain data, or disclosing certain
13 personal information under certain circumstances; requiring a business to include
14 certain information in a certain policy or website and update certain information
15 periodically; requiring a business to ensure that an individual responsible for
16 handling certain consumer inquiries is informed of certain requirements relating to
17 consumer personal information privacy and how to direct consumers to exercise their
18 rights; authorizing a consumer to request that a business delete certain personal
19 information and requiring a business to comply with the request in a certain manner;
20 authorizing a consumer to demand that a business not disclose the consumer's
21 personal information to third parties and requiring a business to comply with the
22 consumer's request to opt out in a certain manner; authorizing a business to require
23 an authentication of a certain request; prohibiting a business from taking certain
24 actions against a consumer who exercises the consumer's rights to consumer
25 personal information privacy; providing for certain exceptions to an otherwise
26 authorized disclosure of consumer personal information; providing that a certain
27 consumer may institute a certain cause of action under certain circumstances;
28 requiring that a court consider certain circumstances for a certain cause of action;
29 authorizing a business or third party to seek the opinion of the Attorney General for
30 a certain purpose; establishing certain penalties for a certain violation; requiring
31 that certain proceeds be distributed in a certain way; authorizing the Office of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Attorney General to adopt certain regulations; establishing the Consumer Privacy Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the State Treasurer to hold and account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to privacy of consumer personal information.

BY adding to

Article – Commercial Law

Section 14–4201 through 14–4216 to be under the new subtitle “Subtitle 42. Consumer Personal Information Privacy”

Annotated Code of Maryland

(2013 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

SUBTITLE 42. CONSUMER PERSONAL INFORMATION PRIVACY.

14–4201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “AGGREGATE CONSUMER INFORMATION” MEANS INFORMATION THAT RELATES TO A GROUP OR CATEGORY OF CONSUMERS, FROM WHICH INDIVIDUAL CONSUMER IDENTITIES HAVE BEEN REMOVED, THAT IS NOT LINKED OR REASONABLY LINKABLE TO ANY CONSUMER, INCLUDING THROUGH A DEVICE.

(2) “AGGREGATE CONSUMER INFORMATION” DOES NOT INCLUDE AN INDIVIDUAL CONSUMER RECORD THAT HAS BEEN DE-IDENTIFIED.

(C) (1) “BIOMETRIC INFORMATION” MEANS AN INDIVIDUAL’S PHYSIOLOGICAL, BIOLOGICAL, OR BEHAVIORAL CHARACTERISTICS, INCLUDING AN INDIVIDUAL’S DNA, THAT CAN BE USED, ALONE OR IN COMBINATION WITH EACH OTHER OR WITH OTHER IDENTIFYING DATA, TO ESTABLISH INDIVIDUAL IDENTITY.

(2) “BIOMETRIC INFORMATION” INCLUDES:

(I) IMAGERY OF THE IRIS, RETINA, FINGERPRINT, FACE, HAND, PALM, AND VEIN PATTERNS, AND VOICE RECORDINGS FROM WHICH AN IDENTIFIER TEMPLATE, SUCH AS A FACE PRINT, A MINUTIAE TEMPLATE, OR A VOICEPRINT, CAN BE EXTRACTED; AND

(II) KEYSTROKE PATTERNS OR RHYTHMS, GAIT PATTERNS OR RHYTHMS, AND SLEEP, HEALTH, OR EXERCISE DATA THAT CONTAIN IDENTIFYING INFORMATION.

(D) “BUSINESS” MEANS:

(1) A SOLE PROPRIETORSHIP, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, A CORPORATION, AN ASSOCIATION, OR ANY OTHER LEGAL ENTITY THAT:

(I) IS ORGANIZED OR OPERATED FOR THE PROFIT OR FINANCIAL BENEFIT OF ITS OWNERS;

(II) COLLECTS THE PERSONAL INFORMATION OF AN INDIVIDUAL OR A CONSUMER; AND

(III) SATISFIES ONE OR MORE OF THE FOLLOWING THRESHOLDS:

1. HAS ANNUAL GROSS REVENUES IN EXCESS OF \$25,000,000;

2. ANNUALLY BUYS, RECEIVES FOR THE BUSINESS’S COMMERCIAL PURPOSES, SELLS, OR SHARES FOR COMMERCIAL PURPOSES, ALONE OR IN COMBINATION, THE PERSONAL INFORMATION OF 50,000 OR MORE CONSUMERS, HOUSEHOLDS, OR DEVICES; OR

3. DERIVES AT LEAST ONE-HALF OF ITS ANNUAL REVENUES FROM SELLING CONSUMERS’ PERSONAL INFORMATION; OR

(2) ANY ENTITY THAT:

(I) CONTROLS OR IS CONTROLLED BY A BUSINESS UNDER ITEM (1) OF THIS SUBSECTION; AND

(II) SHARES A NAME, SERVICE MARK, OR TRADEMARK WITH THE BUSINESS.

(E) (1) “BUSINESS PURPOSE” MEANS THE USE OF PERSONAL INFORMATION BY A BUSINESS OR A SERVICE PROVIDER IN A MANNER REASONABLY NECESSARY AND PROPORTIONATE TO ACHIEVE THE OPERATIONAL PURPOSE FOR WHICH THE INFORMATION WAS COLLECTED OR PROCESSED OR FOR ANOTHER OPERATIONAL PURPOSE THAT IS COMPATIBLE WITH THE CONTEXT IN WHICH THE PERSONAL INFORMATION WAS COLLECTED.

(2) "BUSINESS PURPOSE" INCLUDES:

(I) AUDITING RELATED TO A CURRENT INTERACTION WITH THE CONSUMER AND CONCURRENT TRANSACTIONS, INCLUDING COUNTING AD IMPRESSIONS TO UNIQUE VISITORS, VERIFYING POSITIONING AND QUALITY OF AD IMPRESSIONS, AND AUDITING COMPLIANCE WITH THIS SPECIFICATION AND OTHER STANDARDS;

(II) DETECTING SECURITY INCIDENTS, PROTECTING AGAINST MALICIOUS, DECEPTIVE, FRAUDULENT, OR ILLEGAL ACTIVITY, AND PROSECUTING THOSE RESPONSIBLE FOR THAT ACTIVITY;

(III) DEBUGGING TO IDENTIFY AND REPAIR ERRORS THAT IMPAIR EXISTING INTENDED FUNCTIONALITY;

(IV) SHORT-TERM, TRANSIENT USE, PROVIDED THE PERSONAL INFORMATION IS NOT DISCLOSED TO ANOTHER THIRD PARTY AND IS NOT USED TO BUILD A PROFILE ABOUT A CONSUMER OR OTHERWISE ALTER AN INDIVIDUAL CONSUMER'S EXPERIENCE OUTSIDE THE CURRENT INTERACTION, INCLUDING THE CONTEXTUAL CUSTOMIZATION OF ADS SHOWN AS PART OF THE SAME INTERACTION;

(V) PERFORMING SERVICES ON BEHALF OF THE BUSINESS OR SERVICE PROVIDED, INCLUDING:

- 1. MAINTAINING OR SERVICING ACCOUNTS;**
- 2. PROVIDING CUSTOMER SERVICE;**
- 3. PROCESSING OR FULFILLING ORDERS AND TRANSACTIONS;**
- 4. VERIFYING CUSTOMER INFORMATION;**
- 5. PROCESSING PAYMENTS;**
- 6. PROVIDING FINANCING;**
- 7. PROVIDING ADVERTISING OR MARKETING SERVICES;**
- 8. PROVIDING ANALYTIC SERVICES; AND**
- 9. PROVIDING SIMILAR SERVICES ON BEHALF OF THE**

1 BUSINESS OR SERVICE PROVIDER;

2 (VI) UNDERTAKING INTERNAL RESEARCH FOR TECHNOLOGICAL
3 DEVELOPMENT AND DEMONSTRATION; AND

4 (VII) UNDERTAKING ACTIVITIES TO:

5 1. VERIFY OR MAINTAIN THE QUALITY OR SAFETY OF A
6 SERVICE OR DEVICE THAT IS OWNED BY, MANUFACTURED BY, MANUFACTURED FOR,
7 OR CONTROLLED BY THE BUSINESS; AND

8 2. IMPROVE, UPGRADE, OR ENHANCE THE SERVICE OR
9 DEVICE THAT IS OWNED BY, MANUFACTURED BY, MANUFACTURED FOR, OR
10 CONTROLLED BY THE BUSINESS.

11 (F) (1) "COLLECT" MEANS TO BUY, RENT, GATHER, OBTAIN, RECEIVE, OR
12 ACCESS ANY PERSONAL INFORMATION RELATING TO A CONSUMER BY ANY MEANS.

13 (2) "COLLECT" INCLUDES TO RECEIVE INFORMATION FROM THE
14 CONSUMER ACTIVELY OR PASSIVELY OR BY OBSERVING THE CONSUMER'S
15 BEHAVIOR.

16 (G) (1) "COMMERCIAL PURPOSE" MEANS TO ADVANCE A PERSON'S
17 COMMERCIAL OR ECONOMIC INTERESTS, INCLUDING:

18 (I) INDUCING ANOTHER PERSON TO BUY, RENT, LEASE, JOIN,
19 SUBSCRIBE TO, PROVIDE, OR EXCHANGE PRODUCTS, GOODS, PROPERTY,
20 INFORMATION, OR SERVICES; OR

21 (II) ENABLING OR EFFECTING, DIRECTLY OR INDIRECTLY, A
22 COMMERCIAL TRANSACTION.

23 (2) "COMMERCIAL PURPOSE" DOES NOT INCLUDE ENGAGING IN
24 SPEECH THAT STATE OR FEDERAL COURTS HAVE RECOGNIZED AS NONCOMMERCIAL
25 SPEECH, INCLUDING POLITICAL SPEECH AND JOURNALISM.

26 (H) "CONSUMER" MEANS AN INDIVIDUAL WHO RESIDES IN THE STATE.

27 (I) "CONTROL" MEANS:

28 (1) OWNERSHIP OF, OR POWER TO VOTE, MORE THAN 50% OF THE
29 OUTSTANDING SHARES OF ANY CLASS OF VOTING SECURITY OF A BUSINESS;

(2) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY OF THE DIRECTORS, OR OF INDIVIDUALS EXERCISING SIMILAR FUNCTIONS; OR

(3) THE POWER TO EXERCISE A CONTROLLING INFLUENCE OVER THE MANAGEMENT OF A COMPANY.

(J) “DE-IDENTIFIED” MEANS, WITH RESPECT TO INFORMATION, PROCESSED SO THAT THE INFORMATION CANNOT REASONABLY IDENTIFY, RELATE TO, DESCRIBE, BE CAPABLE OF BEING ASSOCIATED WITH, OR BE LINKED TO A PARTICULAR CONSUMER, IF A BUSINESS THAT USES DE-IDENTIFIED INFORMATION:

(1) HAS IMPLEMENTED TECHNICAL SAFEGUARDS THAT PROHIBIT RE-IDENTIFICATION OF THE CONSUMER TO WHOM THE INFORMATION MAY PERTAIN;

(2) HAS IMPLEMENTED BUSINESS PROCESSES THAT SPECIFICALLY PROHIBIT RE-IDENTIFICATION OF THE INFORMATION;

(3) HAS IMPLEMENTED BUSINESS PROCESSES TO PREVENT INADVERTENT RELEASE OF DE-IDENTIFIED INFORMATION; AND

(4) MAKES NO ATTEMPT TO RE-IDENTIFY THE INFORMATION.

(K) (1) “DESIGNATED METHOD FOR SUBMITTING REQUESTS” MEANS A MAILING ADDRESS, AN E-MAIL ADDRESS, AN INTERNET WEBSITE, AN INTERNET PORTAL, A TELEPHONE NUMBER, OR ANY OTHER APPLICABLE CONTACT INFORMATION THROUGH WHICH A CONSUMER MAY SUBMIT A REQUEST OR DIRECTION UNDER THIS SUBTITLE.

(2) “DESIGNATED METHOD FOR SUBMITTING REQUESTS” INCLUDES A CONSUMER-FRIENDLY MEANS OF CONTACTING A BUSINESS APPROVED BY THE ATTORNEY GENERAL UNDER § 14-4212(4) OF THIS SUBTITLE.

(L) “DEVICE” MEANS A PHYSICAL OBJECT THAT IS CAPABLE OF CONNECTING TO THE INTERNET OR TO ANOTHER DEVICE.

(M) “HEALTH INSURANCE INFORMATION” MEANS:

(1) A CONSUMER’S INSURANCE POLICY NUMBER OR SUBSCRIBER IDENTIFICATION NUMBER;

(2) ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO IDENTIFY THE CONSUMER; OR

(3) ANY INFORMATION IN THE CONSUMER'S APPLICATION AND CLAIMS HISTORY, INCLUDING ANY APPEALS RECORDS, IF THE INFORMATION IS LINKED OR REASONABLY LINKABLE TO A CONSUMER OR HOUSEHOLD, INCLUDING VIA DEVICE BY A BUSINESS OR SERVICE PROVIDER.

(N) "HOMEPAGE" MEANS:

(1) THE INTRODUCTORY PAGE OF AN INTERNET WEBSITE AND ANY INTERNET WEBPAGE WHERE PERSONAL INFORMATION IS COLLECTED; OR

(2) IN THE CASE OF AN ONLINE SERVICE OR APPLICATION:

(I) THE SERVICE OR APPLICATION PLATFORM PAGE OR DOWNLOAD PAGE;

(II) A LINK WITHIN THE SERVICE OR APPLICATION, SUCH AS FROM THE SERVICE OR APPLICATION CONFIGURATION, "ABOUT", "INFORMATION", OR SETTINGS PAGE; OR

(III) ANY OTHER LOCATION THAT ALLOWS A CONSUMER TO REVIEW THE NOTICE REQUIRED BY § 14-4202(A) OF THIS SUBTITLE, WHETHER BEFORE OR AFTER DOWNLOADING THE APPLICATION OR SERVICE.

(O) "INFER" MEANS TO DERIVE INFORMATION, DATA, ASSUMPTIONS, OR CONCLUSIONS FROM FACTS, EVIDENCE, OR ANOTHER SOURCE OF INFORMATION OR DATA.

(P) (1) "PERSONAL INFORMATION" MEANS INFORMATION THAT IDENTIFIES, RELATES TO, DESCRIBES, IS REASONABLY CAPABLE OF BEING ASSOCIATED WITH, OR COULD REASONABLY BE LINKED, DIRECTLY OR INDIRECTLY, WITH A PARTICULAR CONSUMER OR THE CONSUMER'S DEVICE.

(2) "PERSONAL INFORMATION" INCLUDES:

(I) IDENTIFIERS SUCH AS A REAL NAME, AN ALIAS, A POSTAL ADDRESS, A UNIQUE PERSONAL IDENTIFIER, AN ONLINE IDENTIFIER, AN INTERNET PROTOCOL ADDRESS, AN E-MAIL ADDRESS, AN ACCOUNT NAME, A SOCIAL SECURITY NUMBER, A DRIVER'S LICENSE NUMBER, A PASSPORT NUMBER, OR OTHER INFORMATION THAT IDENTIFIES, RELATES TO, DESCRIBES, OR IS CAPABLE OF BEING ASSOCIATED WITH A PARTICULAR INDIVIDUAL;

(II) CHARACTERISTICS OF PROTECTED CLASSIFICATIONS

1 UNDER STATE OR FEDERAL LAW;

2 (III) COMMERCIAL INFORMATION, INCLUDING RECORDS OF
3 PERSONAL PROPERTY, PRODUCTS OR SERVICES PURCHASED, OBTAINED, OR
4 CONSIDERED, OR OTHER PURCHASING OR CONSUMING HISTORIES OR TENDENCIES;

5 (IV) BIOMETRIC INFORMATION;

6 (V) INTERNET OR OTHER ELECTRONIC NETWORK ACTIVITY
7 INFORMATION, INCLUDING BROWSING HISTORY, SEARCH HISTORY, AND
8 INFORMATION REGARDING A CONSUMER'S INTERACTION WITH A WEBSITE,
9 APPLICATION, OR ADVERTISEMENT;

10 (VI) GEOLOCATION DATA;

11 (VII) AUDIO, ELECTRONIC, VISUAL, THERMAL, OLFACTORY, OR
12 SIMILAR INFORMATION;

13 (VIII) PROFESSIONAL OR EMPLOYMENT-RELATED INFORMATION;

14 (IX) EDUCATION INFORMATION AS DEFINED IN THE FAMILY
15 EDUCATIONAL RIGHTS AND PRIVACY ACT; AND

16 (X) INFERENCES DRAWN FROM ANY OF THE INFORMATION
17 IDENTIFIED IN THIS SUBSECTION TO CREATE A PROFILE ABOUT A CONSUMER
18 REFLECTING THE CONSUMER'S PREFERENCES, CHARACTERISTICS,
19 PSYCHOLOGICAL TRENDS, PREDISPOSITIONS, BEHAVIOR, ATTITUDES,
20 INTELLIGENCE, ABILITIES, AND APTITUDES.

21 (3) "PERSONAL INFORMATION" DOES NOT INCLUDE:

22 (I) PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY
23 MADE AVAILABLE FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS;

24 (II) DE-IDENTIFIED CONSUMER INFORMATION; OR

25 (III) AGGREGATE CONSUMER INFORMATION.

26 (Q) "PROBABILISTIC IDENTIFIER" MEANS THE IDENTIFICATION OF A
27 CONSUMER OR A DEVICE TO A DEGREE OF CERTAINTY OF MORE PROBABLE THAN
28 NOT BASED ON CATEGORIES OF PERSONAL INFORMATION INCLUDED IN, OR SIMILAR
29 TO, THE CATEGORIES LISTED UNDER SUBSECTION (P) OF THIS SECTION.

1 (R) “PROCESSING” MEANS AN OPERATION OR A SET OF OPERATIONS THAT
2 IS PERFORMED ON PERSONAL DATA OR ON SETS OF PERSONAL DATA, WHETHER OR
3 NOT BY AUTOMATED MEANS.

4 (S) “PSEUDONYMIZE” MEANS THE PROCESSING OF PERSONAL
5 INFORMATION IN A MANNER THAT RENDERS THE PERSONAL INFORMATION NO
6 LONGER ATTRIBUTABLE TO A SPECIFIC CONSUMER WITHOUT THE USE OF
7 ADDITIONAL INFORMATION, IF THE ADDITIONAL INFORMATION IS KEPT
8 SEPARATELY AND IS SUBJECT TO TECHNICAL AND ADMINISTRATIVE SAFEGUARDS
9 TO ENSURE THAT THE PERSONAL INFORMATION IS NOT ATTRIBUTED TO AN
10 IDENTIFIED OR IDENTIFIABLE CONSUMER.

11 (T) “RESEARCH” MEANS SCIENTIFIC, SYSTEMATIC STUDY AND
12 OBSERVATION, INCLUDING BASIC RESEARCH OR APPLIED RESEARCH, THAT IS IN
13 THE PUBLIC INTEREST AND THAT ADHERES TO APPLICABLE ETHICS AND PRIVACY
14 LAWS OR STUDIES CONDUCTED IN THE PUBLIC INTEREST IN THE AREA OF PUBLIC
15 HEALTH.

16 (U) (1) “SELL” MEANS SELLING, RENTING, RELEASING, DISCLOSING,
17 DISSEMINATING, MAKING AVAILABLE, TRANSFERRING, OR OTHERWISE
18 COMMUNICATING ORALLY, IN WRITING, OR BY ELECTRONIC OR OTHER MEANS A
19 CONSUMER’S PERSONAL INFORMATION BY A BUSINESS TO ANOTHER BUSINESS OR A
20 THIRD PARTY FOR MONETARY OR OTHER VALUABLE CONSIDERATION.

21 (2) “SELL” DOES NOT INCLUDE:

22 (I) THE USE OF A BUSINESS BY A CONSUMER TO
23 INTENTIONALLY DISCLOSE PERSONAL INFORMATION, THE DISCLOSURE OF
24 PERSONAL INFORMATION AT THE DIRECTION OF A CONSUMER, OR THE USE OF THE
25 BUSINESS BY THE CONSUMER TO INTENTIONALLY INTERACT WITH A THIRD PARTY
26 PROVIDED THAT THE THIRD PARTY DOES NOT ALSO SELL THE PERSONAL
27 INFORMATION, UNLESS THAT DISCLOSURE WOULD BE CONSISTENT WITH THE
28 PROVISIONS OF THIS SUBTITLE;

29 (II) THE USE OR SHARING OF AN IDENTIFIER BY A BUSINESS
30 FOR A CONSUMER WHO HAS OPTED OUT OF THE SALE OF THE CONSUMER’S
31 PERSONAL INFORMATION FOR THE PURPOSE OF ALERTING THIRD PARTIES THAT
32 THE CONSUMER HAS OPTED OUT OF THE SALE OF THE CONSUMER’S PERSONAL
33 INFORMATION;

34 (III) THE USE BY A BUSINESS OR THE SHARING OF PERSONAL
35 INFORMATION OF A CONSUMER BY A BUSINESS WITH A SERVICE PROVIDER THAT IS
36 NECESSARY TO PERFORM A BUSINESS PURPOSE IF:

1 1. THE BUSINESS HAS PROVIDED NOTICE THAT THE
2 INFORMATION IS BEING USED OR SHARED IN ITS TERMS AND CONDITIONS
3 CONSISTENT WITH § 14-4202 OF THIS SUBTITLE; AND

4 2. THE SERVICE PROVIDER DOES NOT FURTHER
5 COLLECT, SELL, OR USE THE PERSONAL INFORMATION OF THE CONSUMER EXCEPT
6 AS NECESSARY TO PERFORM THE BUSINESS PURPOSE; OR

7 (IV) THE TRANSFER BY A BUSINESS TO A THIRD PARTY OF THE
8 PERSONAL INFORMATION OF A CONSUMER AS AN ASSET THAT IS PART OF A MERGER,
9 ACQUISITION, BANKRUPTCY, OR OTHER TRANSACTION IN WHICH THE THIRD PARTY:

10 1. ASSUMES CONTROL OF ALL OR PART OF THE
11 BUSINESS, PROVIDED THAT THE INFORMATION IS USED OR SHARED CONSISTENTLY
12 IN ACCORDANCE WITH § 14-4203 OF THIS SUBTITLE; AND

13 2. PROVIDES PRIOR NOTICE:

14 A. OF ANY NEW OR CHANGED PRACTICE TO THE
15 CONSUMER IF THE THIRD PARTY MATERIALLY ALTERS HOW IT USES OR SHARES THE
16 PERSONAL INFORMATION OF A CONSUMER IN A MANNER THAT IS MATERIALLY
17 INCONSISTENT WITH THE PROMISES MADE AT THE TIME OF COLLECTION; AND

18 B. THAT IS SUFFICIENTLY PROMINENT AND ROBUST TO
19 ENSURE THAT EXISTING CONSUMERS CAN EASILY EXERCISE THEIR CHOICES
20 CONSISTENTLY IN ACCORDANCE WITH § 14-4203 OF THIS SUBTITLE.

21 (V) “SERVICE” MEANS WORK, LABOR, AND SERVICES, INCLUDING SERVICES
22 FURNISHED IN CONNECTION WITH THE SALE OR REPAIR OF GOODS.

23 (W) “SERVICE PROVIDER” MEANS A PERSON THAT PROCESSES
24 INFORMATION ON BEHALF OF A BUSINESS AND TO WHICH THE BUSINESS DISCLOSES
25 A CONSUMER’S PERSONAL INFORMATION FOR A BUSINESS PURPOSE IN
26 ACCORDANCE WITH A WRITTEN CONTRACT IF THE CONTRACT PROHIBITS THE
27 ENTITY RECEIVING THE INFORMATION FROM RETAINING, USING, OR DISCLOSING
28 THE PERSONAL INFORMATION FOR ANY PURPOSE OTHER THAN FOR THE SPECIFIC
29 PURPOSE OF PERFORMING THE SERVICES SPECIFIED IN THE CONTRACT FOR THE
30 BUSINESS, OR AS OTHERWISE ALLOWED BY THIS SUBTITLE.

31 (X) “THIRD PARTY” MEANS A PERSON THAT IS NOT:

32 (1) THE BUSINESS THAT COLLECTS PERSONAL INFORMATION FROM

1 CONSUMERS UNDER THIS SUBTITLE OR A SERVICE PROVIDER OF THAT BUSINESS;
2 OR

3 (2) A PERSON TO WHOM THE BUSINESS DISCLOSES A CONSUMER'S
4 PERSONAL INFORMATION FOR A BUSINESS PURPOSE IN ACCORDANCE WITH A
5 WRITTEN CONTRACT THAT:

6 (I) PROHIBITS THE PERSON RECEIVING THE PERSONAL
7 INFORMATION FROM:

8 1. SELLING THE INFORMATION;

9 2. RETAINING, USING, OR DISCLOSING THE PERSONAL
10 INFORMATION FOR ANY PURPOSE OTHER THAN FOR THE SPECIFIC PURPOSE OF
11 PERFORMING THE SERVICES SPECIFIED IN THE CONTRACT; OR

12 3. RETAINING, USING, OR DISCLOSING THE
13 INFORMATION OUTSIDE THE DIRECT BUSINESS RELATIONSHIP BETWEEN THE
14 PERSON AND THE BUSINESS; AND

15 (II) INCLUDES A CERTIFICATION MADE BY THE PERSON
16 RECEIVING THE PERSONAL INFORMATION THAT THE PERSON UNDERSTANDS AND
17 WILL COMPLY WITH THE RESTRICTIONS IN ITEM (I) OF THIS ITEM.

18 (Y) "UNIQUE IDENTIFIER" MEANS A PERSISTENT IDENTIFIER THAT CAN BE
19 USED TO RECOGNIZE A CONSUMER OR A DEVICE THAT IS LINKED TO A CONSUMER
20 OR HOUSEHOLD, OVER TIME AND ACROSS DIFFERENT TECHNOLOGIES, INCLUDING:

21 (1) A DEVICE IDENTIFIER;

22 (2) AN INTERNET PROTOCOL ADDRESS;

23 (3) A COOKIE, BEACON, PIXEL TAG, MOBILE AD IDENTIFIER, OR
24 SIMILAR TECHNOLOGY;

25 (4) A CONSUMER NUMBER, UNIQUE PSEUDONYM, OR USER ALIAS; OR

26 (5) A TELEPHONE NUMBER OR ANY OTHER FORM OF PERSISTENT OR
27 PROBABILISTIC IDENTIFIER THAT CAN BE USED TO IDENTIFY A PARTICULAR
28 CONSUMER OR DEVICE.

29 (Z) "VERIFIABLE CONSUMER REQUEST" MEANS A REQUEST:

(1) MADE BY:

(I) A CONSUMER;

(II) A CONSUMER ON BEHALF OF THE CONSUMER'S MINOR CHILD; OR

(III) A PERSON WHO IS REGISTERED WITH THE SECRETARY OF STATE WHO IS AUTHORIZED TO ACT ON THE CONSUMER'S BEHALF; AND

(2) WHERE THE BUSINESS CAN REASONABLY VERIFY THE PERSON MAKING THE REQUEST IS:

(I) THE CONSUMER ABOUT WHOM THE BUSINESS HAS COLLECTED PERSONAL INFORMATION; OR

(II) A PERSON AUTHORIZED BY THE CONSUMER TO ACT ON THE CONSUMER'S BEHALF.

14-4202.

(A) A BUSINESS THAT COLLECTS A CONSUMER'S PERSONAL INFORMATION SHALL, AT OR BEFORE THE POINT OF COLLECTION, CLEARLY AND CONSPICUOUSLY NOTIFY A CONSUMER OF:

(1) THE CATEGORIES OF PERSONAL INFORMATION THE BUSINESS WILL COLLECT ABOUT THE CONSUMER;

(2) THE BUSINESS PURPOSES FOR WHICH THE CATEGORIES OF PERSONAL INFORMATION MAY BE USED;

(3) THE CATEGORIES OF THIRD PARTIES TO WHICH THE BUSINESS DISCLOSES PERSONAL INFORMATION;

(4) THE BUSINESS PURPOSES FOR THIRD-PARTY DISCLOSURE; AND

(5) THE CONSUMER'S RIGHT TO REQUEST:

(I) A COPY OF THE CONSUMER'S PERSONAL INFORMATION UNDER § 14-4203 OF THIS SUBTITLE;

(II) DELETION OF THE CONSUMER'S PERSONAL INFORMATION UNDER § 14-4205 OF THIS SUBTITLE; AND

(III) TO OPT OUT OF THIRD-PARTY DISCLOSURE UNDER §
14-4206 OF THIS SUBTITLE.

(B) A BUSINESS MAY NOT COLLECT ADDITIONAL CATEGORIES OF PERSONAL
INFORMATION OR USE PERSONAL INFORMATION COLLECTED FOR ADDITIONAL
PURPOSES WITHOUT FIRST PROVIDING THE CONSUMER WITH NOTICE CONSISTENT
WITH THIS SECTION.

14-4203.

(A) A CONSUMER MAY REQUEST THAT A BUSINESS THAT COLLECTS OR
SELLS A CONSUMER'S PERSONAL INFORMATION DISCLOSE TO THE CONSUMER:

(1) THE SPECIFIC PIECES OF PERSONAL INFORMATION THE
BUSINESS HAS COLLECTED ABOUT THE CONSUMER;

(2) THE SOURCES FROM WHICH THE CONSUMER'S PERSONAL
INFORMATION WAS COLLECTED;

(3) THE NAMES OF THIRD PARTIES TO WHICH THE BUSINESS
DISCLOSED THE CONSUMER'S PERSONAL INFORMATION; AND

(4) THE BUSINESS PURPOSES FOR THIRD-PARTY DISCLOSURE.

(B) A BUSINESS SHALL PROVIDE THE INFORMATION SPECIFIED IN
SUBSECTION (A) OF THIS SECTION TO A CONSUMER ONLY ON RECEIPT OF A
VERIFIABLE CONSUMER REQUEST.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AFTER
RECEIVING A VERIFIABLE CONSUMER REQUEST, A BUSINESS SHALL PROMPTLY
TAKE STEPS TO PROVIDE, FREE OF CHARGE TO THE CONSUMER, THE PERSONAL
INFORMATION REQUIRED BY THIS SECTION.

(2) THE INFORMATION MAY BE PROVIDED BY:

(I) UNITED STATES MAIL; OR

(II) ELECTRONIC DELIVERY THAT IS PORTABLE AND, TO THE
EXTENT TECHNICALLY FEASIBLE, IN A READILY USEABLE FORMAT THAT ALLOWS
THE CONSUMER TO TRANSMIT THIS INFORMATION TO ANOTHER ENTITY WITHOUT
HINDRANCE.

(D) A BUSINESS MAY PROVIDE PERSONAL INFORMATION TO A CONSUMER AT ANY TIME, NOTWITHSTANDING § 14-4204 OF THIS SUBTITLE, BUT IS NOT REQUIRED TO PROVIDE PERSONAL INFORMATION TO THE SAME CONSUMER MORE THAN TWICE IN A 12-MONTH PERIOD.

(E) IF VERIFIED REQUESTS FROM A CONSUMER ARE EXCESSIVE, BECAUSE OF THEIR REPETITIVE CHARACTER, A BUSINESS MAY:

(1) CHARGE A REASONABLE FEE, TAKING INTO ACCOUNT THE ADMINISTRATIVE COSTS OF PROVIDING THE INFORMATION OR COMMUNICATION OR TAKING THE ACTION REQUESTED; OR

(2) REFUSE TO ACT ON THE REQUEST AND NOTIFY THE CONSUMER OF THE REASON FOR REFUSING THE REQUEST.

(F) A BUSINESS MAY NOT REQUIRE A CONSUMER TO CREATE AN ACCOUNT WITH THE BUSINESS IN ORDER TO MAKE A VERIFIABLE CONSUMER REQUEST.

(G) A BUSINESS MAY NOT:

(1) RETAIN PERSONAL INFORMATION ABOUT A CONSUMER COLLECTED FROM A SINGLE ONE-TIME TRANSACTION, UNLESS THE BUSINESS REGULARLY RETAINS PERSONAL INFORMATION OF THAT TYPE IN THE ORDINARY COURSE OF BUSINESS;

(2) RE-IDENTIFY OR LINK ANY DATA THAT IN THE ORDINARY COURSE OF BUSINESS IS NOT MAINTAINED IN A MANNER THAT WOULD BE CONSIDERED PERSONAL INFORMATION; OR

(3) DISCLOSE PERSONAL INFORMATION IF THE DISCLOSURE WOULD ADVERSELY AFFECT THE LEGAL RIGHTS OF OTHER CONSUMERS.

14-4204.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A BUSINESS SHALL, IN A FORM THAT IS REASONABLY ACCESSIBLE TO CONSUMERS, MAKE AVAILABLE TO CONSUMERS TWO OR MORE DESIGNATED METHODS FOR SUBMITTING CONSUMER VERIFIED REQUESTS.

(2) (I) IF A BUSINESS MAINTAINS AN INTERNET WEBSITE IN CONNECTION WITH THE BUSINESS, THE BUSINESS SHALL MAINTAIN A WEBSITE PAGE THAT MEETS THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 (II) A BUSINESS SHALL PROVIDE A TOLL-FREE TELEPHONE
2 NUMBER FOR THE PURPOSE OF ACCEPTING CONSUMER VERIFIED REQUESTS UNDER
3 THIS SUBSECTION UNLESS THE BUSINESS MAINTAINS A DIRECT RELATIONSHIP WITH
4 THE CONSUMER.

5 (B) (1) A BUSINESS SHALL DELIVER TO A CONSUMER FREE OF CHARGE
6 WITHIN 45 DAYS AFTER RECEIVING A VERIFIABLE CONSUMER REQUEST FROM THE
7 CONSUMER THE INFORMATION REQUIRED IN § 14-4203 OF THIS SUBTITLE IN A
8 READILY USEABLE FORMAT THAT ALLOWS THE CONSUMER TO TRANSMIT THE
9 INFORMATION FROM ONE ENTITY TO ANOTHER ENTITY WITHOUT HINDRANCE.

10 (2) THE TIME PERIOD TO PROVIDE THE REQUIRED INFORMATION
11 MAY BE EXTENDED ONCE BY UP TO AN ADDITIONAL 45 DAYS WHEN REASONABLY
12 NECESSARY IF THE CONSUMER IS PROVIDED NOTICE OF THE EXTENSION WITHIN
13 THE FIRST 45-DAY PERIOD.

14 (C) A BUSINESS IS NOT REQUIRED TO PROVIDE THE INFORMATION
15 REQUIRED BY § 14-4203 OF THIS SUBTITLE TO THE SAME CONSUMER MORE THAN
16 TWICE IN A 12-MONTH PERIOD.

17 (D) (1) IF A BUSINESS HAS AN ONLINE PRIVACY POLICY, THE BUSINESS
18 SHALL INCLUDE IN THE POLICY:

19 (I) THE CATEGORIES OF PERSONAL INFORMATION THE
20 BUSINESS COLLECTS ABOUT CONSUMERS;

21 (II) THE BUSINESS PURPOSES FOR WHICH THE CATEGORIES OF
22 PERSONAL INFORMATION ARE USED;

23 (III) THE CATEGORIES OF THIRD PARTIES TO WHICH THE
24 BUSINESS DISCLOSES PERSONAL INFORMATION;

25 (IV) THE BUSINESS PURPOSE FOR THIRD-PARTY DISCLOSURE;
26 AND

27 (V) THE CONSUMER'S RIGHT TO REQUEST:

28 1. A COPY OF THE CONSUMER'S PERSONAL
29 INFORMATION IN ACCORDANCE WITH § 14-4203 OF THIS SUBTITLE;

30 2. THE DELETION OF THE CONSUMER'S PERSONAL
31 INFORMATION IN ACCORDANCE WITH § 14-4205 OF THIS SUBTITLE; AND

1 **3. TO OPT OUT OF THIRD-PARTY DISCLOSURE IN**
2 **ACCORDANCE WITH § 14-4206 OF THIS SUBTITLE.**

3 **(2) IF A BUSINESS DOES NOT HAVE AN ONLINE PRIVACY POLICY BUT**
4 **DOES HAVE A BUSINESS WEBSITE, THE BUSINESS SHALL:**

5 **(I) INCLUDE THE INFORMATION REQUIRED UNDER**
6 **PARAGRAPH (1) OF THIS SUBSECTION ON THE WEBSITE; AND**

7 **(II) UPDATE THE INFORMATION AT LEAST ONCE EVERY 12**
8 **MONTHS.**

9 **(E) A BUSINESS SHALL ENSURE THAT AN INDIVIDUAL RESPONSIBLE FOR**
10 **HANDLING CONSUMER INQUIRIES ABOUT THE BUSINESS'S PRIVACY PRACTICES OR**
11 **THE BUSINESS'S COMPLIANCE WITH THIS SUBTITLE IS INFORMED OF THE**
12 **REQUIREMENTS IN THIS SUBTITLE AND HOW TO DIRECT A CONSUMER TO EXERCISE**
13 **THE CONSUMER'S RIGHTS UNDER THIS SUBTITLE.**

14 **(F) A BUSINESS MAY USE PERSONAL INFORMATION COLLECTED FROM A**
15 **CONSUMER IN CONNECTION WITH THE BUSINESS'S VERIFICATION OF THE**
16 **CONSUMER'S REQUEST ONLY FOR THE PURPOSES OF VERIFICATION.**

17 **14-4205.**

18 **(A) A CONSUMER MAY REQUEST THAT A BUSINESS DELETE ALL PERSONAL**
19 **INFORMATION ABOUT THE CONSUMER THAT THE BUSINESS HAS COLLECTED FROM**
20 **THE CONSUMER.**

21 **(B) A BUSINESS THAT COLLECTS PERSONAL INFORMATION ABOUT A**
22 **CONSUMER SHALL DISCLOSE, IN ACCORDANCE WITH § 14-4202 OF THIS SUBTITLE,**
23 **THE CONSUMER'S RIGHT TO REQUEST THE DELETION OF THE CONSUMER'S**
24 **PERSONAL INFORMATION.**

25 **(C) A BUSINESS THAT RECEIVES A VERIFIABLE CONSUMER REQUEST FROM**
26 **A CONSUMER TO DELETE THE CONSUMER'S PERSONAL INFORMATION UNDER**
27 **SUBSECTION (A) OF THIS SECTION SHALL DELETE THE PERSONAL INFORMATION**
28 **FROM ITS RECORDS AND DIRECT SERVICE PROVIDERS TO DELETE THE PERSONAL**
29 **INFORMATION FROM THE SERVICE PROVIDERS' RECORDS.**

30 **(D) A BUSINESS OR A SERVICE PROVIDER IS NOT REQUIRED TO COMPLY**
31 **WITH A CONSUMER'S REQUEST TO DELETE THE CONSUMER'S PERSONAL**
32 **INFORMATION IF IT IS NECESSARY FOR THE BUSINESS OR SERVICE PROVIDER TO**
33 **MAINTAIN THE PERSONAL INFORMATION IN ORDER TO:**

(1) COMPLETE THE TRANSACTION FOR WHICH THE PERSONAL INFORMATION WAS COLLECTED, PROVIDE A GOOD OR SERVICE REQUESTED BY THE CONSUMER OR REASONABLY ANTICIPATED WITHIN THE CONTEXT OF A BUSINESS'S ONGOING BUSINESS RELATIONSHIP WITH THE CONSUMER, OR OTHERWISE PERFORM A CONTRACT BETWEEN THE BUSINESS AND THE CONSUMER;

(2) DETECT SECURITY INCIDENTS, PROTECT AGAINST MALICIOUS, DECEPTIVE, FRAUDULENT, OR ILLEGAL ACTIVITY, OR PROSECUTE THOSE RESPONSIBLE FOR THAT ACTIVITY; OR

(3) IDENTIFY OR REPAIR ERRORS THAT IMPAIR EXISTING INTENDED FUNCTIONALITY.

14-4206.

(A) (1) A CONSUMER MAY, AT ANY TIME, DEMAND THAT A BUSINESS NOT DISCLOSE THE CONSUMER'S PERSONAL INFORMATION TO THIRD PARTIES.

(2) THIS RIGHT MAY BE REFERRED TO AS THE "RIGHT TO OPT OUT OF THIRD-PARTY DISCLOSURE".

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A BUSINESS MAY NOT DISCLOSE THE PERSONAL INFORMATION OF A CONSUMER TO A THIRD PARTY IF THE BUSINESS HAS ACTUAL KNOWLEDGE OF OR WILLFULLY DISREGARDS THE FACT THAT THE CONSUMER IS UNDER THE AGE OF 16 YEARS.

(C) A BUSINESS THAT HAS RECEIVED DIRECTION FROM A CONSUMER NOT TO DISCLOSE THE CONSUMER'S PERSONAL INFORMATION TO THIRD PARTIES MAY NOT:

(1) DISCLOSE THE PERSONAL INFORMATION TO THIRD PARTIES UNLESS THE CONSUMER LATER PROVIDES EXPRESS AUTHORIZATION FOR THAT DISCLOSURE; OR

(2) REQUEST AUTHORIZATION TO DISCLOSE THE PERSONAL INFORMATION TO THIRD PARTIES FOR AT LEAST 12 MONTHS FROM THE DATE ON WHICH THE BUSINESS RECEIVED THE DIRECTION FROM THE CONSUMER.

(D) A BUSINESS SHALL PROVIDE A CLEAR AND CONSPICUOUS LINK ON THE INTERNET HOMEPAGE OF THE BUSINESS TO AN INTERNET WEBPAGE THAT ENABLES A CONSUMER OR A PERSON AUTHORIZED BY THE CONSUMER TO OPT OUT OF THE THIRD-PARTY DISCLOSURE OF THE CONSUMER'S PERSONAL INFORMATION.

(E) A CONSUMER MAY AUTHORIZE ANOTHER PERSON TO OPT OUT OF THE SALE OR DISCLOSURE OF THE CONSUMER'S PERSONAL INFORMATION ON THE CONSUMER'S BEHALF, AND A BUSINESS SHALL COMPLY WITH AN OPT-OUT REQUEST RECEIVED FROM A PERSON AUTHORIZED BY THE CONSUMER TO ACT ON THE CONSUMER'S BEHALF, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE ATTORNEY GENERAL.

(F) A BUSINESS MAY REQUIRE AUTHENTICATION OF A CONSUMER REQUEST RECEIVED UNDER THIS SECTION IN A MANNER THAT IS REASONABLE IN LIGHT OF THE NATURE OF THE PERSONAL INFORMATION REQUESTED.

(G) A BUSINESS MAY NOT REQUIRE A CONSUMER TO CREATE AN ACCOUNT IN ORDER TO EXERCISE THE RIGHT TO OPT OUT OF THIRD-PARTY DISCLOSURE.

14-4207.

(A) A BUSINESS MAY NOT DISCRIMINATE AGAINST A CONSUMER BASED ON THE CONSUMER'S DECISION TO EXERCISE RIGHTS UNDER THIS SUBTITLE.

(B) FOR PURPOSES OF THIS SECTION, DISCRIMINATION INCLUDES:

(1) DENYING GOODS OR SERVICES TO THE CONSUMER;

(2) CHARGING DIFFERENT PRICES OR RATES FOR GOODS OR SERVICES, INCLUDING THROUGH THE USE OF DISCOUNTS OR OTHER BENEFITS OR PENALTIES;

(3) PROVIDING A DIFFERENT LEVEL OR QUALITY OF GOODS OR SERVICES TO THE CONSUMER; OR

(4) SUGGESTING THAT THE CONSUMER WILL RECEIVE A DIFFERENT PRICE OR RATE FOR GOODS OR SERVICES OR A DIFFERENT LEVEL OR QUALITY OF GOODS OR SERVICES.

14-4208.

(A) THE OBLIGATIONS IMPOSED BY THIS SUBTITLE MAY NOT RESTRICT THE ABILITY OF A BUSINESS OR THIRD PARTY TO:

(1) COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS;

(2) COMPLY WITH A CIVIL, CRIMINAL, OR REGULATORY INQUIRY,

1 INVESTIGATION, SUBPOENA, OR SUMMONS BY A FEDERAL, STATE, OR LOCAL
2 AUTHORITY;

3 (3) COOPERATE WITH A LAW ENFORCEMENT AGENCY CONCERNING
4 CONDUCT OR ACTIVITY THAT THE BUSINESS, SERVICE PROVIDER, OR THIRD PARTY
5 REASONABLY AND IN GOOD FAITH BELIEVES MAY VIOLATE FEDERAL, STATE, OR
6 LOCAL LAW;

7 (4) EXERCISE LEGAL RIGHTS OR PRIVILEGES;

8 (5) COLLECT, USE, RETAIN, SELL, OR DISCLOSE CONSUMER
9 INFORMATION THAT IS DE-IDENTIFIED OR CONSUMER INFORMATION IN THE
10 AGGREGATE; OR

11 (6) COLLECT OR SELL A CONSUMER'S PERSONAL INFORMATION IF
12 EVERY ASPECT OF THAT COMMERCIAL CONDUCT TAKES PLACE WHOLLY OUT OF THE
13 STATE, PROVIDED THAT IF THE BUSINESS COLLECTED THE INFORMATION WHILE
14 THE CONSUMER WAS OUTSIDE THE STATE:

15 (I) NO PART OF THE SALE OF THE CONSUMER'S PERSONAL
16 INFORMATION OCCURRED IN THE STATE; AND

17 (II) NO PERSONAL INFORMATION COLLECTED WHILE THE
18 CONSUMER WAS IN THE STATE IS SOLD.

19 (B) THIS SUBTITLE DOES NOT APPLY TO:

20 (1) A BUSINESS COLLECTING OR DISCLOSING PERSONAL
21 INFORMATION OF THE BUSINESS'S EMPLOYEES TO THE EXTENT THAT THE BUSINESS
22 IS COLLECTING OR DISCLOSING THE INFORMATION WITHIN THE SCOPE OF ITS ROLE
23 AS AN EMPLOYER;

24 (2) MEDICAL OR HEALTH INFORMATION THAT IS COLLECTED BY A
25 COVERED ENTITY OR BUSINESS ASSOCIATE GOVERNED BY STATE LAW OR THE
26 PRIVACY, SECURITY, AND BREACH NOTIFICATION RULES ISSUED BY THE U.S.
27 DEPARTMENT OF HEALTH AND HUMAN SERVICES IN 45 C.F.R. PARTS 160 AND 164,
28 ESTABLISHED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE
29 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND THE FEDERAL HEALTH
30 INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT;

31 (3) THE SALE OF PERSONAL INFORMATION TO OR FROM A CONSUMER
32 REPORTING AGENCY IF THAT INFORMATION IS TO BE REPORTED IN OR USED TO
33 GENERATE A "CONSUMER REPORT" AS DEFINED BY 15 U.S.C. § 1681A AND USE OF

1 THAT INFORMATION IS LIMITED BY THE FEDERAL FAIR CREDIT REPORTING ACT;

2 (4) PERSONAL INFORMATION COLLECTED, PROCESSED, SOLD, OR
3 DISCLOSED UNDER THE FEDERAL GRAMM-LEACH-BLILEY ACT AND
4 IMPLEMENTING REGULATIONS; OR

5 (5) PERSONAL INFORMATION COLLECTED, PROCESSED, SOLD, OR
6 DISCLOSED UNDER THE FEDERAL DRIVER'S PRIVACY PROTECTION ACT OF 1994.

7 14-4209.

8 RESEARCH WITH PERSONAL INFORMATION THAT MAY HAVE BEEN
9 COLLECTED FROM A CONSUMER IN THE COURSE OF THE CONSUMER'S
10 INTERACTIONS WITH A BUSINESS'S SERVICE OR DEVICE FOR OTHER PURPOSES
11 SHALL BE:

12 (1) USED SOLELY FOR RESEARCH PURPOSES THAT ARE COMPATIBLE
13 WITH THE CONTEXT IN WHICH THE PERSONAL INFORMATION WAS COLLECTED;

14 (2) RESTRICTED FROM USE FOR ANY COMMERCIAL PURPOSE;

15 (3) SUBSEQUENTLY PSEUDONYMIZED AND DE-IDENTIFIED, OR
16 DE-IDENTIFIED AND IN THE AGGREGATE, SO THAT THE INFORMATION CANNOT
17 REASONABLY IDENTIFY, RELATE TO, DESCRIBE, BE CAPABLE OF BEING ASSOCIATED
18 WITH, OR BE LINKED, DIRECTLY OR INDIRECTLY, TO A PARTICULAR CONSUMER;

19 (4) SUBJECT TO TECHNICAL SAFEGUARDS THAT PROHIBIT
20 RE-IDENTIFICATION OF THE CONSUMER TO WHOM THE INFORMATION MAY
21 PERTAIN;

22 (5) SUBJECT TO BUSINESS PROCESSES THAT SPECIFICALLY
23 PROHIBIT RE-IDENTIFICATION OF THE INFORMATION;

24 (6) SUBJECT TO BUSINESS PROCESSES TO PREVENT INADVERTENT
25 RELEASE OF DE-IDENTIFIED INFORMATION;

26 (7) PROTECTED FROM ANY RE-IDENTIFICATION ATTEMPTS; AND

27 (8) SUBJECT TO THE ADDITIONAL SECURITY CONTROLS OF THE
28 BUSINESS THAT LIMIT ACCESS TO THE RESEARCH DATA TO ONLY THOSE
29 INDIVIDUALS IN A BUSINESS AS ARE NECESSARY TO CARRY OUT THE RESEARCH
30 PURPOSE.

1 14-4210.

2 (A) (1) A CONSUMER WHOSE NONENCRYPTED DATA OR NONREDACTED
3 PERSONAL INFORMATION IS SUBJECT TO AN UNAUTHORIZED ACCESS AND
4 EXFILTRATION, THEFT, OR DISCLOSURE AS A RESULT OF A BUSINESS'S VIOLATION
5 OF THE DUTY TO IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES
6 AND PRACTICES APPROPRIATE TO THE NATURE OF THE INFORMATION TO PROTECT
7 THE PERSONAL INFORMATION MAY INSTITUTE AN ACTION FOR:

8 (I) DAMAGES IN AN AMOUNT OF AT LEAST \$100 BUT NOT
9 EXCEEDING \$750 FOR EACH CONSUMER PER INCIDENT OR ACTUAL DAMAGES,
10 WHICHEVER IS GREATER;

11 (II) INJUNCTIVE OR DECLARATORY RELIEF; AND

12 (III) ANY OTHER RELIEF THE COURT DETERMINES PROPER.

13 (2) IN ASSESSING THE AMOUNT OF STATUTORY DAMAGES, A COURT
14 SHALL CONSIDER RELEVANT CIRCUMSTANCES PRESENTED BY ANY OF THE PARTIES
15 TO THE CASE, INCLUDING:

16 (I) THE NATURE AND SERIOUSNESS OF THE MISCONDUCT;

17 (II) THE NUMBER OF VIOLATIONS;

18 (III) THE PERSISTENCE OF MISCONDUCT;

19 (IV) THE LENGTH OF TIME THE MISCONDUCT OCCURRED;

20 (V) THE WILLFULNESS OF THE DEFENDANT'S MISCONDUCT;

21 AND

22 (VI) THE DEFENDANT'S ASSETS, LIABILITIES, AND NET WORTH.

23 (B) (1) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY A
24 CONSUMER IF, BEFORE INITIATING ANY ACTION AGAINST A BUSINESS FOR
25 STATUTORY DAMAGES ON AN INDIVIDUAL OR CLASS-WIDE BASIS, THE CONSUMER
26 PROVIDES A BUSINESS 30 DAYS' WRITTEN NOTICE IDENTIFYING THE SPECIFIC
27 PROVISIONS OF THIS SUBTITLE THE CONSUMER ALLEGES HAVE BEEN OR ARE BEING
28 VIOLATED.

29 (2) IN THE EVENT A CURE IS POSSIBLE, IF WITHIN THE 30 DAYS THE
30 BUSINESS ACTUALLY CURES THE NOTICED VIOLATION AND PROVIDES THE

1 CONSUMER AN EXPRESS WRITTEN STATEMENT THAT THE VIOLATIONS HAVE BEEN
2 CURED AND THAT NO FURTHER VIOLATIONS SHALL OCCUR, NO ACTION FOR
3 INDIVIDUAL STATUTORY DAMAGES OR CLASS-WIDE STATUTORY DAMAGES MAY BE
4 INITIATED AGAINST THE BUSINESS.

5 (3) NOTICE IS NOT REQUIRED BEFORE AN INDIVIDUAL CONSUMER
6 INITIATES AN ACTION SOLELY FOR ACTUAL PECUNIARY DAMAGES SUFFERED AS A
7 RESULT OF THE ALLEGED VIOLATIONS OF THIS SUBTITLE.

8 (4) IF A BUSINESS CONTINUES TO VIOLATE THIS SUBTITLE IN BREACH
9 OF THE EXPRESS WRITTEN STATEMENT PROVIDED TO THE CUSTOMER UNDER THIS
10 SECTION, THE CONSUMER MAY INITIATE AN ACTION AGAINST THE BUSINESS TO
11 ENFORCE THE WRITTEN STATEMENT AND MAY PURSUE STATUTORY DAMAGES FOR
12 EACH BREACH OF THE EXPRESS WRITTEN STATEMENT, AS WELL AS ANY OTHER
13 VIOLATION OF THE TITLE THAT POSTDATES THE WRITTEN STATEMENT.

14 (C) (1) THE CAUSE OF ACTION ESTABLISHED BY THIS SECTION APPLIES
15 ONLY TO VIOLATIONS AS DEFINED IN SUBSECTION (A) OF THIS SECTION AND MAY
16 NOT BE BASED ON VIOLATIONS OF ANY OTHER SECTION OF THIS SUBTITLE.

17 (2) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THIS
18 SUBTITLE MAY NOT BE CONSTRUED TO SERVE AS THE BASIS FOR A PRIVATE RIGHT
19 OF ACTION UNDER ANY OTHER LAW.

20 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO RELIEVE ANY
21 PARTY FROM ANY DUTIES OR OBLIGATIONS IMPOSED UNDER STATE LAW OR THE
22 UNITED STATES CONSTITUTION.

23 14-4211.

24 (A) A BUSINESS OR THIRD PARTY MAY SEEK THE OPINION OF THE
25 ATTORNEY GENERAL FOR GUIDANCE ON HOW TO COMPLY WITH THE PROVISIONS OF
26 THIS SUBTITLE.

27 (B) A BUSINESS IS IN VIOLATION OF THIS SUBTITLE IF THE BUSINESS FAILS
28 TO CURE ANY ALLEGED VIOLATION OF THIS SUBTITLE WITHIN 30 DAYS AFTER BEING
29 NOTIFIED OF ALLEGED NONCOMPLIANCE.

30 (C) (1) A PERSON THAT VIOLATES THIS SUBTITLE IS:

31 (I) SUBJECT TO AN INJUNCTION; AND

32 (II) LIABLE FOR A CIVIL PENALTY IN A CIVIL ACTION BROUGHT

1 BY THE ATTORNEY GENERAL.

2 (2) THE CIVIL PENALTIES PROVIDED FOR IN THIS SECTION SHALL BE
3 EXCLUSIVELY ASSESSED AND RECOVERED IN A CIVIL ACTION BROUGHT IN THE
4 NAME OF THE PEOPLE OF THE STATE BY THE ATTORNEY GENERAL.

5 (D) A PERSON THAT INTENTIONALLY VIOLATES THIS SUBTITLE IS SUBJECT
6 TO A CIVIL PENALTY NOT EXCEEDING \$7,500 FOR EACH VIOLATION.

7 (E) (1) ANY CIVIL PENALTY ASSESSED FOR A VIOLATION OF THIS
8 SUBTITLE AND THE PROCEEDS OF ANY SETTLEMENT OF AN ACTION BROUGHT IN
9 ACCORDANCE WITH THIS SECTION SHALL BE ALLOCATED AS FOLLOWS:

10 (I) 20% TO THE CONSUMER PRIVACY FUND;

11 (II) 40% TO THE JURISDICTION ON WHOSE BEHALF THE ACTION
12 LEADING TO THE CIVIL PENALTY WAS BROUGHT; AND

13 (III) 40% TO THE BLUEPRINT FOR MARYLAND'S FUTURE FUND.

14 (2) THE STATE TREASURER MAY ADJUST AS NECESSARY THE
15 PERCENTAGES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION TO ENSURE THAT
16 ANY CIVIL PENALTIES ASSESSED FOR A VIOLATION OF THIS SUBTITLE FULLY OFFSET
17 ANY COSTS INCURRED BY THE STATE COURTS AND THE ATTORNEY GENERAL IN
18 CONNECTION WITH THIS SUBTITLE, INCLUDING A SUFFICIENT AMOUNT TO COVER
19 ANY DEFICIT FROM A PRECEDING FISCAL YEAR.

20 14-4212.

21 THE OFFICE OF THE ATTORNEY GENERAL MAY ADOPT REGULATIONS
22 NECESSARY TO CARRY OUT THIS SUBTITLE, INCLUDING REGULATIONS TO:

23 (1) IDENTIFY CATEGORIES OF PERSONAL INFORMATION IN ADDITION
24 TO THOSE UNDER § 14-4208(B) OF THIS SUBTITLE IN ORDER TO ADDRESS CHANGES
25 IN TECHNOLOGY, DATA COLLECTION PRACTICES, OBSTACLES TO IMPLEMENTATION,
26 AND PRIVACY CONCERNS;

27 (2) UPDATE AS NEEDED THE DEFINITION OF "UNIQUE IDENTIFIER"
28 TO ADDRESS CHANGES IN TECHNOLOGY, DATA COLLECTION, OBSTACLES TO
29 IMPLEMENTATION, AND PRIVACY CONCERNS;

30 (3) ESTABLISH ANY EXCEPTIONS NECESSARY TO COMPLY WITH
31 STATE OR FEDERAL LAW, INCLUDING EXCEPTIONS RELATING TO TRADE SECRETS

1 AND INTELLECTUAL PROPERTY RIGHTS;

2 (4) ADOPT STANDARDS AND PROCEDURES:

3 (I) TO FACILITATE AND GOVERN THE SUBMISSION OF
4 VERIFIABLE CONSUMER REQUESTS UNDER §§ 14-4203 THROUGH 14-4206 OF THIS
5 SUBTITLE;

6 (II) TO GOVERN RESPONSES BY BUSINESSES AND SERVICE
7 PROVIDERS TO VERIFIABLE CONSUMER REQUESTS UNDER §§ 14-4203 THROUGH
8 14-4206 OF THIS SUBTITLE; AND

9 (III) FOR THE DEVELOPMENT AND USE BY ALL BUSINESSES OF A
10 RECOGNIZABLE AND UNIFORM OPT-OUT LOGO OR BUTTON TO PROMOTE CONSUMER
11 AWARENESS OF THE OPPORTUNITY TO OPT OUT OF THIRD-PARTY DISCLOSURE OF
12 CONSUMER PERSONAL INFORMATION;

13 (5) ADJUST THE MONETARY THRESHOLD IN § 14-4201(D)(1)(III)1 OF
14 THIS SUBTITLE TO REFLECT ANY INCREASE IN THE UNITED STATES BUREAU OF
15 LABOR STATISTICS' CONSUMER PRICE INDEX;

16 (6) ENSURE THAT THE NOTICES AND INFORMATION THAT
17 BUSINESSES ARE REQUIRED TO PROVIDE UNDER THIS SUBTITLE ARE PROVIDED IN
18 A MANNER THAT MAY BE EASILY UNDERSTOOD BY THE AVERAGE CONSUMER, ARE
19 ACCESSIBLE TO CONSUMERS WITH DISABILITIES, AND ARE AVAILABLE IN THE
20 LANGUAGE PRIMARILY USED TO INTERACT WITH THE CONSUMER, INCLUDING BY
21 ADOPTING REGULATIONS, PROCEDURES, AND GUIDELINES REGARDING FINANCIAL
22 INCENTIVE OFFERINGS; AND

23 (7) FURTHER THE PURPOSES OF §§ 14-4203 THROUGH 14-4206 OF
24 THIS SUBTITLE, WITH THE GOAL OF MINIMIZING THE ADMINISTRATIVE BURDEN ON
25 CONSUMERS, TAKING INTO ACCOUNT AVAILABLE TECHNOLOGY, SECURITY
26 CONCERNS, AND THE BURDEN ON THE BUSINESS, TO GOVERN A DETERMINATION BY
27 A BUSINESS THAT A REQUEST FOR INFORMATION RECEIVED BY A CONSUMER IS A
28 VERIFIABLE CONSUMER REQUEST, INCLUDING TREATING A REQUEST SUBMITTED
29 THROUGH A PASSWORD-PROTECTED ACCOUNT MAINTAINED BY THE CONSUMER
30 WITH THE BUSINESS WHILE THE CONSUMER IS LOGGED INTO THE ACCOUNT AS A
31 VERIFIABLE CONSUMER REQUEST AND PROVIDING A MECHANISM FOR A CONSUMER
32 WHO DOES NOT MAINTAIN AN ACCOUNT WITH THE BUSINESS TO REQUEST
33 INFORMATION THROUGH THE BUSINESS'S AUTHENTICATION OF THE CONSUMER'S
34 IDENTITY.

35 14-4213.

1 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE SHALL
2 BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSE AND IS INTENDED TO
3 SUPPLEMENT FEDERAL AND STATE LAW.

4 (B) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT OR CONFLICT
5 WITH ANY FEDERAL LAW.

6 14-4214.

7 IF A SERIES OF STEPS OR TRANSACTIONS WERE COMPONENT PARTS OF A
8 SINGLE TRANSACTION AND TAKEN WITH THE INTENT OF AVOIDING THE
9 REQUIREMENTS OF THIS SUBTITLE, A COURT SHALL DISREGARD THE
10 INTERMEDIATE STEPS OR TRANSACTIONS FOR PURPOSES OF CARRYING OUT THIS
11 SUBTITLE.

12 14-4215.

13 A PROVISION OF A CONTRACT OR AN AGREEMENT OF ANY KIND THAT
14 PURPORTS TO WAIVE OR LIMIT IN ANY WAY THE RIGHTS OF A CONSUMER UNDER
15 THIS SUBTITLE, INCLUDING A RIGHT TO A REMEDY OR MEANS OF ENFORCEMENT,
16 SHALL BE CONSIDERED CONTRARY TO PUBLIC POLICY AND SHALL BE VOID AND
17 UNENFORCEABLE.

18 14-4216.

19 (A) IN THIS SECTION, "FUND" MEANS THE CONSUMER PRIVACY FUND.

20 (B) THERE IS A CONSUMER PRIVACY FUND.

21 (C) THE PURPOSE OF THE FUND IS TO OFFSET ANY COSTS INCURRED BY
22 THE STATE COURTS IN CONNECTION WITH ACTIONS BROUGHT TO ENFORCE THIS
23 SUBTITLE AND ANY COSTS INCURRED BY THE ATTORNEY GENERAL IN CARRYING
24 OUT THE ATTORNEY GENERAL'S DUTIES UNDER THIS SUBTITLE.

25 (D) THE STATE TREASURER SHALL ADMINISTER THE FUND.

26 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
27 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
29 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

**(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 14-4211 OF THIS
SUBTITLE;**

**(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND**

**(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
THE BENEFIT OF THE FUND.**

**(G) THE FUND MAY BE USED ONLY FOR OFFSETTING ANY COSTS INCURRED
BY THE STATE COURTS IN CONNECTION WITH ACTIONS BROUGHT TO ENFORCE THIS
SUBTITLE AND ANY COSTS INCURRED BY THE ATTORNEY GENERAL IN CARRYING
OUT THE ATTORNEY GENERAL'S DUTIES UNDER THIS SUBTITLE.**

**(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

**(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
THE GENERAL FUND OF THE STATE.**

**(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
WITH THE STATE BUDGET.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2020.**