

# HB283 ENGROSSED



1 HB283  
2 XDFFP7Z-2  
3 By Representatives Shaw, Brown, Lipscomb, Moore (P), Lomax  
4 RFD: Commerce and Small Business  
5 First Read: 13-Feb-25



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to data privacy; to authorize a consumer to take certain actions regarding the consumer's personal data; to regulate the manner in which a controller may process personal data; and to regulate the processing of deidentified data.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as the Alabama Personal Data Protection Act.

Section 2. For the purposes of this act, the following terms have the following meanings:

(1) AFFILIATE. A legal entity that shares common branding with another legal entity or that controls, is controlled by, or is under common control with another legal entity.

(2) ARTIFICIAL INTELLIGENCE MODEL. The underlying machine learning algorithm, along with its derived parameters, including, but not limited to, weights, biases, and other internal representations that result solely from the training process, and which does not inherently contain personally identifiable information unless that information has been



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explicitly embedded in the algorithm. The term does not include any downstream system or application that uses the model.

(3) AUTHENTICATE. To use reasonable methods to determine that a request to exercise any of the consumer rights afforded under this act is being made by, or on behalf of, a consumer who is entitled to exercise those consumer rights with respect to the consumer's personal data at issue.

(4) BIOMETRIC DATA. Data generated by automatic measurements of an individual's biological characteristics such as a fingerprint, voiceprint, retina, or iris that are used to identify a specific individual. The term does not include any of the following:

- a. A digital or physical photograph.
- b. An audio or video recording.
- c. Any data generated from paragraphs a. or b. unless the data is used to identify a specific individual.

(5) CHILD. An individual under 13 years of age.

(6) CONSENT. A clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer, including, but not limited to, a written statement or a statement by electronic means. The term does not include any of the following:

- a. Acceptance of a general or broad term of use or similar document that contains descriptions of personal data processing along with other unrelated information.

- b. Hovering over, muting, pausing, or closing a given



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57 piece of content.

58 c. An agreement obtained using dark patterns.

59 (7) CONSUMER. An individual who is a resident of this  
60 state. The term does not include an individual acting in a  
61 commercial or employment context or as an employee, owner,  
62 director, officer, or contractor of a company, partnership,  
63 sole proprietorship, nonprofit, or government agency whose  
64 communications or transactions with the controller occur  
65 solely within the context of that individual's role with the  
66 company, partnership, sole proprietorship, nonprofit, or  
67 government agency.

68 (8) CONTROL. Any of the following:

69 a. Ownership of or the power to vote more than 50  
70 percent of the outstanding shares of any class of voting  
71 security of a company.

72 b. Control in any manner over the election of a  
73 majority of the directors or of individuals exercising similar  
74 functions.

75 c. The power to exercise controlling influence over the  
76 management of a company.

77 (9) CONTROLLER. An individual or legal entity that,  
78 alone or jointly with others, determines the purposes and  
79 means of processing personal data.

80 (10) DARK PATTERN. A user interface designed or  
81 manipulated with the effect of substantially subverting or  
82 impairing user autonomy, decision-making, or choice.

83 (11) DEIDENTIFIED DATA. Data that cannot be used to  
84 reasonably infer information about or otherwise be linked to



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an identified or identifiable individual or a device linked to an identified or identifiable individual if the controller that possesses the data does all of the following:

a. Takes reasonable measures to ensure that the data cannot be associated with an individual.

b. Publicly commits to process the data in a deidentified fashion only and to not attempt to reidentify the data.

c. Contractually obligates any recipients of the data to satisfy the criteria set forth in Section 11(a) and (b).

(12) IDENTIFIABLE INDIVIDUAL. An individual who can be readily identified, directly or indirectly.

(13) NONPROFIT ENTITY. As defined in Section 10A-1-1.03, Code of Alabama 1975.

(14) PERSONAL DATA. Any information that is linked or reasonably linkable to an identified or identifiable individual. The term does not include deidentified data or publicly available information.

(15) PRECISE GEOLOCATION DATA. Information derived from technology, including, but not limited to, global positioning system level latitude and longitude coordinates, which directly identifies the specific location of an individual with precision and accuracy within a radius of 1,750 feet. The term does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(16) PROCESS. Any operation or set of operations, whether by manual or automated means, performed on personal



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data or on sets of personal data, including, but not limited to, the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(17) PROCESSOR. An individual or legal entity that processes personal data on behalf of a controller.

(18) PROFILING. Any form of solely-automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(19) PSEUDONYMOUS DATA. Personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributable to an identified or identifiable individual.

(20) PUBLICLY AVAILABLE INFORMATION. Either of the following:

a. Information that is lawfully made available through federal, state, or local government records or widely distributed media.

b. Information that a controller has a reasonable basis to believe a consumer has lawfully made available to the public.

(21) SALE OF PERSONAL DATA. The exchange of personal data for monetary or other valuable consideration by a controller to a third party. The term does not include any of the following:

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141 a. The disclosure of personal data to a processor that  
142 processes the personal data on behalf of the controller.

143 b. The disclosure of personal data to a third party for  
144 the purposes of providing a product or service requested by  
145 the consumer.

146 c. The disclosure or transfer of personal data to an  
147 affiliate of the controller.

148 d. The disclosure of personal data in which the  
149 consumer directs the controller to disclose the personal data  
150 or intentionally uses the controller to interact with a third  
151 party.

152 e. The disclosure of personal data that the consumer  
153 intentionally made available to the public via a channel of  
154 mass media and did not restrict to a specific audience.

155 f. The disclosure or transfer of personal data to a  
156 third party as an asset that is part of a merger, acquisition,  
157 bankruptcy, or other transaction, or a proposed merger,  
158 acquisition, bankruptcy, or other transaction in which the  
159 third party assumes control of all or part of the controller's  
160 assets.

161 g. The disclosure or transfer of personal data to a  
162 third party for the purposes of providing analytics or  
163 marketing services solely to the controller.

164 (22) SENSITIVE DATA. Personal data that includes any of  
165 the following:

166 a. Data revealing racial or ethnic origin, religious  
167 beliefs, a mental or physical health condition or diagnosis,  
168 information about an individual's sex life, sexual



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orientation, or citizenship or immigration status.

b. The processing of genetic or biometric data for the purpose of uniquely identifying an individual.

c. Personal data collected from a known child.

d. Precise geolocation data.

(23) SIGNIFICANT DECISION. A decision made by a controller that results in the provision or denial by the controller of credit or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunity, health care service, or access to basic necessities such as food or water.

(24) TARGETED ADVERTISING. Displaying advertisements to a consumer in which the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated Internet websites or online applications to predict the consumer's preferences or interests. The term does not include any of the following:

a. Advertisements based on activities within a controller's own Internet websites or online applications.

b. Advertisements based on the context of a consumer's current search query or visit to any Internet website or online application.

c. Advertisements directed to a consumer in response to the consumer's request for information or feedback.

d. Processing personal data solely to measure or report advertising frequency, performance, or reach.

(25) THIRD PARTY. An individual or legal entity other





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197 than a consumer, controller, processor, or an affiliate of the  
198 controller or processor.

199 (26) TRADE SECRET. As defined in Section 8-27-2, Code  
200 of Alabama 1975.

201 Section 3. The provisions of this act apply to persons  
202 that conduct business in this state or persons that produce  
203 products or services that are targeted to residents of this  
204 state and that meet either of the following qualifications:

205 (1) Control or process the personal data of more than  
206 50,000 consumers, excluding personal data controlled or  
207 processes solely for the purpose of completing a payment  
208 transaction.

209 (2) Control or process the personal data of more than  
210 25,000 consumers and derive more than 25 percent of gross  
211 revenue from the sale of personal data.

212 Section 4. (a) Notwithstanding any other provisions of  
213 this act, this act shall not apply to any of the following:

214 (1) A political subdivision of the state.

215 (2) A two-year or four-year institution of higher  
216 education.

217 (3) A national securities association that is  
218 registered under 15 U.S.C. § 78o-3.

219 (4) A financial institution or an affiliate of a  
220 financial institution governed by 15 U.S.C. Chapter 94.

221 (5) A financial institution or an affiliate of a  
222 financial institution governed by, or personal data collected,  
223 processed, sold, or disclosed in accordance with Title V of  
224 the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et. seq.



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(6) A covered entity or business associate as defined in the privacy regulations of 45 C.F.R. § 160.13.

(7) A business with fewer than 500 employees, provided the business does not engage in the sale of personal data.

(8) A nonprofit entity, as defined in Section 10A-1-1.03, Code of Alabama 1975, with less than 100 employees, provided the employer does not engage in the sale of personal data.

(9) Any person or entity regulated by Section 8-6-1 et seq., Code of Alabama 1975.

(10) Any person or entity regulated by Section 8-7A-1 et seq., Code of Alabama 1975.

(11) Any trade association explicitly authorized to receive documents or evidence pursuant to Section 27-12A-23, Code of Alabama 1975.

(b) This act shall not apply to any of the following information or data:

(1) Protected health information under the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996 and related regulations.

(2) Patient-identifying information for the purposes of 42 C.F.R. Part 2, established pursuant to 42 U.S.C. § 290dd-2.

(3) Identifiable private information for the purposes of 45 C.F.R. Part 46.

(4) Identifiable private information that is otherwise collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for



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253     Pharmaceuticals for Human Use.

254             (5) The protection of human subjects under 21 C.F.R.  
255     Parts 6, 50, and 56, or personal data used or shared in  
256     research as defined in the federal Health Insurance  
257     Portability and Accountability Act of 1996 and 45 C.F.R. §  
258     164.501, that is conducted in accordance with applicable law.

259             (6) Information or documents created for the purposes  
260     of the federal Health Care Quality Improvement Act of 1986.

261             (7) Patient safety work products for the purposes of  
262     the federal Patient Safety and Quality Improvement Act of  
263     2005.

264             (8) Information derived from any of the health care  
265     related information listed in this subsection which is  
266     deidentified in accordance with the requirements for  
267     deidentification pursuant to the privacy regulations of the  
268     federal Health Insurance Portability and Accountability Act of  
269     1996.

270             (9) Information derived from any of the health care  
271     related information listed in this subsection which is  
272     included in a limited data set as described in 45 C.F.R. §  
273     164.514(e), to the extent that the information is used,  
274     disclosed, and maintained in a manner specified in 45 C.F.R. §  
275     164.514(e).

276             (10) Information originating from and intermingled to  
277     be indistinguishable with or information treated in the same  
278     manner as information exempt under this subsection which is  
279     maintained by a covered entity or business associate as  
280     defined in the privacy regulations of the federal Health



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281 Insurance Portability and Accountability Act of 1996 or a  
282 program or qualified service organization as specified in 42  
283 U.S.C. § 290dd-2.

284 (11) Information used for public health activities and  
285 purposes as authorized by the federal Health Insurance  
286 Portability and Accountability Act of 1996, community health  
287 activities, and population health activities.

288 (12) The collection, maintenance, disclosure, sale,  
289 communication, or use of any personal information bearing on a  
290 consumer's credit worthiness, credit standing, credit  
291 capacity, character, general reputation, personal  
292 characteristics, or mode of living by a consumer reporting  
293 agency, furnisher, or user that provides information for use  
294 in a consumer report and by a user of a consumer report, but  
295 only to the extent that the activity is regulated by and  
296 authorized under the federal Fair Credit Reporting Act.

297 (13) Personal data collected, processed, sold, or  
298 disclosed in compliance with the federal Driver's Privacy  
299 Protection Act of 1994.

300 (14) Personal data regulated by the federal Family  
301 Educational Rights and Privacy Act of 1974.

302 (15) Personal data collected, processed, sold, or  
303 disclosed in compliance with the federal Farm Credit Act of  
304 1971.

305 (16) Data processed or maintained by an individual  
306 applying to, employed by, or acting as an agent or independent  
307 contractor of a controller, processor, or third party to the  
308 extent that the data is collected and used within the context



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309 of that role.

310 (17) Data processed or maintained as the emergency  
311 contact information of an individual under this act and used  
312 for emergency contact purposes.

313 (18) Data processed or maintained that is necessary to  
314 retain to administer benefits for another individual relating  
315 to the individual who is the subject of the information under  
316 this section and is used for the purposes of administering the  
317 benefits.

318 (19) Personal data collected, processed, sold, or  
319 disclosed in relation to price, route, or service, as these  
320 terms are used in the federal Airline Deregulation Act of 1978  
321 by an air carrier subject to the act.

322 (20) Data or information collected or processed to  
323 comply with or in accordance with state law.

324 (21) Artificial intelligence models, provided that no  
325 personally identifiable data is present in the model or can be  
326 extracted from the model.

327 (22) Personal data collected or used pursuant to 21  
328 U.S.C. § 830.

329 (c) Controllers and processors that comply with the  
330 verifiable parental consent requirements of the federal  
331 Children's Online Privacy Protection Act of 1998 are compliant  
332 with any obligation to obtain parental consent pursuant to  
333 this act.

334 Section 5. (a) Subject to authentication and any other  
335 conditions or limitations provided by this act, a consumer may  
336 invoke the rights authorized under this subsection at any time



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by submitting a request to a controller specifying the right the consumer seeks to invoke. A known child's parent or legal guardian may invoke a right on behalf of the child. A controller shall comply with an authenticated request to do any of the following:

(1) Confirm whether a controller is processing the consumer's personal data and accessing any of the consumer's personal data under the control of the controller, unless confirmation or access would require the controller to reveal a trade secret.

(2) Correct inaccuracies in the consumer's personal data, considering the nature of the personal data and the purposes of the processing of the consumer's personal data.

(3) Direct a controller to delete the consumer's personal data.

(4) Obtain a copy of the consumer's personal data previously provided by the consumer to a controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the personal data to another controller without hindrance when the processing is carried out by automated means, unless the provision of the data would require the controller to reveal a trade secret.

(5) Opt out of the processing of the consumer's personal data for any of the following purposes:

- a. Targeted advertising.
- b. The sale of the consumer's personal data.
- c. Profiling in furtherance of solely automated



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significant decisions concerning the consumer.

(b) A controller shall establish a secure and reliable method for a consumer to exercise rights established by this section and shall describe the method in the controller's privacy notice.

(c) (1) A consumer may designate an authorized agent in accordance with Section 6 to exercise the consumer's rights established by this section.

(2) A parent or legal guardian of a known child may exercise the consumer's rights on behalf of the known child regarding the processing of personal data.

(3) A guardian or conservator of a consumer may exercise the consumer's rights on behalf of the consumer regarding the processing of personal data.

(d) Except as otherwise provided in this act, a controller shall comply with a request by a consumer to exercise the consumer's rights authorized by this section as follows:

(1)a. A controller shall respond to a consumer's request within 45 days of receipt of the request.

b. A controller may extend the response period by 45 additional days, when reasonably necessary considering the complexity and number of the consumer's requests, by notifying the consumer of the extension and the reason for the extension within the initial 45-day response period.

(2) If a controller declines to act regarding a consumer's request, the controller shall inform the consumer of the justification for declining to act within 45 days of



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393 receipt of the request.

394 (3) Information provided in response to a consumer  
395 request must be provided by a controller, free of charge, once  
396 for each consumer during any 12-month period. If a consumer's  
397 requests are manifestly unfounded, excessive, technically  
398 infeasible, or repetitive, the controller may charge the  
399 consumer a reasonable fee to cover the administrative costs of  
400 complying with a request or decline to act on a request. The  
401 controller bears the burden of demonstrating the manifestly  
402 unfounded, excessive, technically infeasible, or repetitive  
403 nature of a request.

404 (4) If a controller is unable to authenticate a  
405 consumer's request using commercially reasonable efforts, the  
406 controller shall not be required to comply with a request to  
407 initiate an action pursuant to this section and shall provide  
408 notice to the consumer that the controller is unable to  
409 authenticate the request until the consumer provides  
410 additional information reasonably necessary to authenticate  
411 the consumer and the request. A controller is not required to  
412 authenticate an opt-out request, but a controller may deny an  
413 opt-out request if the controller has a good faith,  
414 reasonable, and documented belief that the request is  
415 fraudulent. If a controller denies an opt-out request because  
416 the controller believes the request is fraudulent, the  
417 controller shall send notice to the person who made the  
418 request disclosing that the controller believes the request is  
419 fraudulent and that the controller may not comply with the  
420 request.





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(5) A controller that has obtained personal data about a consumer from a source other than the consumer is in compliance with a consumer's request to delete the consumer's data if the controller has done either of the following:

a. Retained a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains deleted from the controller's records and refrains from using the retained data for any other purpose.

b. Opted the consumer out of the processing of the consumer's personal data for any purpose except for those exempted pursuant to this act.

Section 6. (a) A consumer may designate another person to serve as the consumer's authorized agent and act on the consumer's behalf to opt out of the processing of the consumer's personal data for one or more of the purposes specified in Section 4.

(b) A controller shall comply with an opt-out request received from an authorized agent if the controller is able to verify, with commercially reasonable effort, the identity of the consumer and the authorized agent's authority to act on the consumer's behalf.

(c) An opt-out method must do both of the following:

(1) Provide a clear and conspicuous link on the controller's Internet website to an Internet web page that enables a consumer or an agent of the consumer to opt out of the targeted advertising or sale of the consumer's personal data.



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(2) By no later than January 1, 2027, allow a consumer or an agent of the consumer to opt out of any processing of the consumer's personal data for the purposes of targeted advertising, or any sale of such personal data through an opt-out preference signal sent with the consumer's consent, to the controller by a platform, technology, or mechanism that does all of the following:

a. May not unfairly disadvantage another controller.

b. May not make use of a default setting, but require the consumer to make an affirmative, freely given, and unambiguous choice to opt out of any processing of a customer's personal data pursuant to this act.

c. Must be consumer friendly and easy to use by the average consumer.

d. Must be consistent with any federal or state law or regulation.

e. Must allow the controller to accurately determine whether the consumer is a resident of the state and whether the consumer has made a legitimate request to opt out of any sale of a consumer's personal data or targeted advertising.

(d)(1) If a consumer's decision to opt out of any processing of the consumer's personal data for the purposes of targeted advertising, or any sale of personal data, through an opt-out preference signal sent in accordance with this section conflicts with the consumer's existing controller-specific privacy setting or voluntary participation in a controller's bona fide loyalty, rewards, premium features, discounts, or club card program, the controller shall comply with the



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consumer's opt-out preference signal but may notify the consumer of the conflict and provide the choice to confirm controller-specific privacy settings or participation in such a program.

(2) If a controller responds to consumer opt-out requests received in accordance with this section by informing the consumer of a charge for the use of any product or service, the controller shall present the terms of any financial incentive offered pursuant to this section for the retention, use, sale, or sharing of the consumer's personal data.

Section 7. (a) A controller shall do all of the following:

(1) Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which the personal data is processed, as disclosed to the consumer.

(2) Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue.

(3) Provide an effective mechanism for a consumer to revoke the consumer's consent under this act that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, on revocation of the consent, cease to process the personal data as soon as practicable, but within 45 days of receipt of the request.



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505 (b) A controller may not do any of the following:

506 (1) Except as provided in this act, process personal  
507 data for purposes that are not reasonably necessary to or  
508 compatible with the disclosed purposes for which the personal  
509 data is processed as disclosed to the consumer unless the  
510 controller obtains the consumer's consent.

511 (2) Process sensitive data concerning a consumer  
512 without notifying the consumer and providing the consumer an  
513 opportunity to opt out of the processing or, in the case of  
514 the processing of sensitive data concerning a known child,  
515 without processing the sensitive data in accordance with the  
516 federal Children's Online Privacy Protection Act of 1998.

517 (3) Process personal data in violation of the laws of  
518 this state or federal laws that prohibit unlawful  
519 discrimination against consumers.

520 (4) Process the personal data of a consumer for the  
521 purposes of targeted advertising or sell a consumer's personal  
522 data without the consumer's consent under circumstances in  
523 which a controller has actual knowledge that the consumer is  
524 at least 13 years of age but younger than 16 years of age.

525 (5) Deny goods or services, charge different prices or  
526 rates for goods or services, or provide a different level of  
527 quality of goods or services to a customer if the customer  
528 opts out of the processing of the customer's data. However, if  
529 a customer opts out of data processing, the covered entity is  
530 not required to provide a service that requires data  
531 processing. Controllers may provide different prices or levels  
532 for goods or services if the good or service is a bona fide



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loyalty, rewards, premium features, discount, or club card programs in which a customer voluntarily participates.

(c) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose the processing, as well as the way a consumer may exercise the right to opt out of the processing.

(d) A controller shall provide consumers with a reasonably accurate, clear, and meaningful privacy notice that includes all of the following:

(1) The categories of personal data processed by the controller.

(2) The purpose for processing personal data.

(3) The categories of personal data that the controller shares with third parties, if any.

(4) The categories of third parties, if any, with which the controller shares personal data.

(5) An active email address or other mechanism that the consumer may use to contact the controller.

(6) How consumers may exercise their consumer rights.

(e) (1) A controller shall establish and describe in a privacy notice one or more secure and reliable means for consumers to submit a request to exercise their consumer rights pursuant to this act considering the ways in which consumers normally interact with the controller, the need for secure and reliable communication of consumer requests, and the ability of the controller to verify the identity of the consumer making the request.



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(2) A controller may not require a consumer to create a new account to exercise consumer rights but may require a consumer to use an existing account.

Section 8. (a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting the controller's obligations under this act, including, but not limited to, both of the following:

(1) Considering the nature of processing and the information available to the processor by appropriate technical and organizational measures as much as reasonably practicable to fulfill the controller's obligation to respond to consumer rights requests.

(2) Considering the nature of processing and the information available to the processor by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of security of the system of the processor to meet the controller's obligations.

(b) A contract between a controller and a processor must govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract must be binding and clearly set forth instructions for processing data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties. The contract must also require that the processor do all of the following:

(1) Ensure that each person processing personal data is



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589 subject to a duty of confidentiality with respect to the  
590 personal data.

591 (2) At the controller's direction, delete or return all  
592 personal data to the controller as requested at the end of the  
593 provision of services, unless retention of the personal data  
594 is required by law.

595 (3) Upon the reasonable request of the controller, make  
596 available to the controller all information in the processor's  
597 possession necessary to demonstrate the processor's compliance  
598 with the obligations in this act.

599 (4) Engage any subcontractor pursuant to a written  
600 contract that requires the subcontractor to meet the  
601 obligations of the processor with respect to the personal  
602 data.

603 (5) Allow and cooperate with reasonable assessments by  
604 the controller or the controller's designated assessor, or the  
605 processor may arrange for a qualified and independent assessor  
606 to assess the processor's policies and technical and  
607 organizational measures in support of the obligations under  
608 this act using an appropriate and accepted control standard or  
609 framework and assessment procedure for the assessments. The  
610 processor shall provide a report of the assessment to the  
611 controller on request.

612 (c) Nothing in this section may be construed to relieve  
613 a controller or processor from the liabilities imposed on the  
614 controller or processor by virtue of the controller's or  
615 processor's role in the processing relationship as described  
616 in this act.



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(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends on the following context in which personal data is to be processed:

(1) A person who is not limited in the processing of personal data pursuant to a controller's instructions or who fails to adhere to a controller's instructions is a controller and not a processor with respect to a specific processing of data.

(2) A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

(3) If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under this act.

Section 9. (a) Any controller in possession of deidentified data shall do all of the following:

(1) Take reasonable measures to ensure that the deidentified data cannot be associated with an individual.

(2) Publicly commit to maintaining and using deidentified data without attempting to reidentify the deidentified data.

(3) Contractually obligate any recipients of the deidentified data to comply with all provisions of this section.

(b) Nothing in this act may be construed to do either





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645 of the following:

646 (1) Require a controller or processor to reidentify  
647 deidentified data or pseudonymous data.

648 (2) Maintain data in identifiable form or collect,  
649 obtain, retain, or access any data or technology to be capable  
650 of associating an authenticated consumer request with personal  
651 data.

652 (c) Nothing in this act may be construed to require a  
653 controller or processor to comply with an authenticated  
654 consumer rights request if the controller:

655 (1) Is not reasonably capable of associating the  
656 request with the personal data or it would be unreasonably  
657 burdensome for the controller to associate the request with  
658 the personal data;

659 (2) Does not use the personal data to recognize or  
660 respond to the specific consumer who is the subject of the  
661 personal data or associate the personal data with other  
662 personal data about the same specific consumer; and

663 (3) Does not sell the personal data to any third party  
664 or otherwise voluntarily disclose the personal data to any  
665 third party other than a processor, except as otherwise  
666 permitted in this section.

667 (d) The rights afforded under Section 4 may not apply  
668 to pseudonymous data in cases in which the controller is able  
669 to demonstrate that any information necessary to identify the  
670 consumer is kept separately and is subject to effective  
671 technical and organizational controls that prevent the  
672 controller from accessing the information.



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(e) A controller that discloses pseudonymous data or deidentified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or deidentified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

Section 10. (a) Nothing in this act may be construed to restrict a controller's or processor's ability to do any of the following:

(1) Comply with federal, state, or local ordinances or regulations.

(2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other government authority.

(3) Cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local ordinances, rules, or regulations.

(4) Investigate, establish, exercise, prepare for, or defend legal claims.

(5) Provide a product or service specifically requested by a consumer.

(6) Perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty.

(7) Take steps at the request of a consumer prior to entering a contract.

(8) Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or



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another individual and when the processing cannot be manifestly based on another legal basis.

(9) Prevent, detect, protect against, or respond to security incidents; identify theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any of these actions.

(10) Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board that determines or similar independent oversight entities that determine all of the following:

a. Whether the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller.

b. The expected benefits of the research outweigh the privacy risks.

c. Whether the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification.

(11) Assist another controller, processor, or third party with any of the obligations under this act.

(12) Process personal data for reasons of public interest in public health, community health, or population health, but solely to the extent that the processing does both of the following:



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a. Subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed.

b. Under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers or processors under this act may not restrict a controller's or processor's ability to collect, use, or retain personal data for internal use to do any of the following:

(1) Conduct internal research to develop, improve, or repair products, services, or technology.

(2) Effectuate a product recall.

(3) Identify and repair technical errors that impair existing or intended functionality.

(4) Perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(c) The obligations imposed on controllers or processors under this act may not apply when compliance by the controller or processor with this act would violate an evidentiary privilege under the laws of this state. Nothing in this act may be construed to prevent a controller or processor from providing personal data concerning a consumer to a person



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covered by an evidentiary privilege under the laws of this state as part of a privileged communication.

(d) (1) If, at the time a controller or processor discloses personal data to a processor or third-party controller in accordance with this act, the controller or processor did not have actual knowledge that the processor or third-party controller would violate this act, then the controller or processor may not be considered to have violated this act.

(2) A receiving processor or third-party controller receiving personal data from a disclosing controller or processor in compliance with this act is likewise not in violation of this act for the transgressions of the disclosing controller or processor from which the receiving processor or third-party controller receives the personal data.

(e) Nothing in this act may be construed to do either of the following:

(1) Impose any obligation on a controller or processor that adversely affects the rights or freedoms of any person.

(2) Apply to a person's processing of personal data during the person's personal or household activities.

(f) Personal data processed by a controller pursuant to this section may be processed to the extent that the processing is both of the following:

(1) Reasonably necessary and proportionate to the purposes listed in this section.

(2) Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this



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785 section. The controller or processor must, when applicable,  
786 consider the nature and purpose of the collection, use, or  
787 retention of the personal data collected, used, or retained  
788 pursuant to this section. The personal data must be subject to  
789 reasonable administrative, technical, and physical measures to  
790 protect the confidentiality, integrity, and accessibility of  
791 the personal data and to reduce reasonably foreseeable risks  
792 of harm to consumers relating to the collection, use, or  
793 retention of personal data.

794 (g) If a controller processes personal data pursuant to  
795 an exemption in this section, the controller bears the burden  
796 of demonstrating that the processing qualifies for the  
797 exemption and complies with the requirements in this section.

798 (h) Processing personal data for the purposes expressly  
799 identified in this section may not solely make a legal entity  
800 a controller with respect to the processing.

801 Section 11. (a) The Attorney General has exclusive  
802 authority to enforce violations of this act.

803 (b) (1) The Attorney General, prior to initiating any  
804 action for a violation of any provision of this act, shall  
805 issue a notice of violation to the controller.

806 (2) If the controller fails to correct the violation  
807 within 60 days of receipt of the notice of violation, the  
808 Attorney General may bring an action pursuant to this section  
809 and assess a fine of not more than ten thousand dollars  
810 (\$10,000) per violation.

811 (3) If within the 60-day period the controller corrects  
812 the noticed violation and provides the Attorney General an



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813 express written statement that the alleged violations have  
814 been corrected and that no such further violations will occur,  
815 no action may be initiated against the controller.

816 (c) A violation of this act does not establish a  
817 private cause of action under the laws of this state. Nothing  
818 in this act may be otherwise construed to affect any right a  
819 person may have at common law, by statute, or otherwise.

820 Section 12. This act shall become effective on July 1,  
821 2026.

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### House of Representatives

825 Read for the first time and referred .....13-Feb-25  
826 to the House of Representatives  
827 committee on Commerce and Small  
828 Business

829  
830 Read for the second time and placed .....09-Apr-25  
831 on the calendar:  
832 0 amendments

833  
834 Read for the third time and passed .....22-Apr-25  
835 as amended  
836 Yeas 100  
837 Nays 0  
838 Abs 1

839  
840  
841  
842

John Treadwell  
Clerk