

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2969 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Collin Walke

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2969

By: Walke and West (Josh)

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to privacy of computer data; creating
9 a new title; enacting the Oklahoma Computer Data
10 Privacy Act of 2022; providing intent and
11 construction; defining terms; prescribing that the
12 Attorney General is responsible for enforcement;
13 providing that this act applies to certain businesses
14 that collect consumers' personal information;
15 providing exemptions; providing disclosure
16 requirements; providing limitations; providing
17 consumers the right to opt out of personalized
18 advertising and data collection; providing consumers
19 the right to deletion of their information; providing
20 exceptions to request for deletion of information;
21 providing consumers with the right to have their
22 personal information corrected; requiring businesses
23 to not discriminate; providing guidelines for
24 implementation; providing exemptions; preempting
intermediate transactions from circumventing
regulations; providing waivers are void and
unenforceable; prohibiting businesses from modifying
or manipulating user interfaces to obscure, subvert,
or impair user autonomy, decision-making, or choice;
prescribing compliance with other laws and legal
proceedings; providing consumers the right to request
disclosure of certain information; providing
consumers the right to request the deletion of their
information; providing consumers the right to request
and receive a disclosure of personal information sold
or disclosed; providing consumers the right to opt in
and out of the sale of their personal information;
finding that individuals in Oklahoma have a right to
prohibit retention, use, or disclosure of their own
personal data; finding that Oklahomans have been

1 exploited for monetary gain and manipulation by
2 private ventures in utilization of private data;
3 finding that the protection of individuals' data is a
4 core governmental function in order to protect the
5 health, safety, and welfare of individuals in
6 Oklahoma; finding that this act is the least
7 restrictive alternative necessary to protect
8 individuals and their rights; finding that the use of
9 a strictly opt-out method for data privacy is
10 ineffectual and poses an immediate risk to health,
11 safety, and welfare of Oklahomans; providing that
12 contracts or other agreements purporting to waive or
13 limit a right, remedy, or means of enforcement are
14 contrary to public policy and are void; requiring
15 that businesses collecting consumer data information
16 must inform the consumer of each category of personal
17 information collected and for which purpose the
18 information will be used, and obtain the consumer's
19 explicit consent; requiring businesses that collect,
20 sell, or for a business purpose disclose consumers'
21 personal information to provide an online privacy
22 policy or a notice of the business's policies;
23 requiring businesses to designate and make available
24 methods for submitting a verifiable consumer request
for information that is required to be disclosed or
deleted; requiring businesses receiving consumer
requests to promptly take steps to reasonably verify
the identity of the requesting consumers; requiring
businesses that receive a verifiable consumer request
within a certain timeframe disclose the required
information; requiring businesses that use de-
identified information to not re-identify or attempt
to re-identify a consumer who is the subject of de-
identified information without obtaining permission;
providing that businesses may not discriminate
against consumers for exercising their rights;
providing that businesses may offer a financial
incentive to consumers for the collection, sale, or
disclosure of their personal information; providing
that businesses may not divide a single transaction
into more than one transaction with the intent to
avoid the requirements of this act; requiring
businesses to ensure employees handling consumer
inquiries about privacy practices are informed of
certain rights, requirements, and information;
providing civil penalties; authorizing the Oklahoma
Attorney General to take certain actions against

1 violating businesses; authorizing the Attorney
2 General to recover reasonable expenses incurred in
3 obtaining injunctive relief or civil penalties;
4 directing the Attorney General to deposit collected
5 penalties in a dedicated account in the General
6 Revenue Fund; providing certain immunities; providing
7 protections to service providers; requiring this act
8 to be liberally construed to align its effects with
9 other laws relating to privacy and protection of
10 personal information; providing that when in conflict
11 federal law controls; providing that when in conflict
12 with state law the law providing the greatest privacy
13 or protection to consumers controls; providing for
14 preemption of local law; providing severability of
15 provisions; providing for noncodification; providing
16 for codification; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

In publishing the decennial Oklahoma Statutes, and the
cumulative supplements after July 1, 2022, West Publishing Company
shall include in such decennial statutes and supplements a new Title
75A, to be designated "Technology".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 401 of Title 75A, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma
Computer Data Privacy Act of 2022".

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 402 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Legislature acknowledges the people's
5 Constitutional right to privacy and further acknowledges that any
6 collection of Oklahoma citizens' data without their knowledge and
7 consent is a violation of such right to privacy. This act is
8 intended to complement other data privacy laws, both state and
9 federal, and to the extent there is a conflict with a state law, the
10 law conferring the greatest privacy shall control. Further, the
11 Oklahoma Legislature has determined the provisions of this act are
12 the least restrictive possible.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 403 of Title 75A, unless there
15 is created a duplication in numbering, reads as follows:

16 As used in this act:

17 1. "Aggregate consumer information" means information that
18 relates to a group of consumers, from which individual consumer
19 identities have been removed, that is not linked or reasonably
20 linkable to any consumer or household, including via a device.

21 Aggregate consumer information does not mean one or more individual
22 consumer records that have been de-identified;

23 2. "Biometric information" means an individual's physiological,
24 biological, or behavioral characteristics or an electronic

1 representation of such, including an individual's deoxyribonucleic
2 acid (DNA), that can be used, singly or in combination with each
3 other or with other identifying data, to establish an individual's
4 identity. Biometric information includes, but is not limited to,
5 imagery of the iris, retina, fingerprint, face, hand, palm, vein
6 patterns, and voice recordings from which an identifier template,
7 such as a faceprint, a minutiae template, or a voiceprint, can be
8 extracted, and keystroke patterns or rhythms, gait patterns or
9 rhythms, and sleep, health, or exercise data that contain
10 identifying information;

11 3. "Business" means:

12 a. a sole proprietorship, partnership, limited liability
13 company, corporation, association, or other legal
14 entity that collects consumers' personal information,
15 or on the behalf of which such information is
16 collected and that alone, or jointly with others,
17 determines the purposes and means of the processing of
18 consumers' personal information, that does business in
19 the State of Oklahoma, and that satisfies one or more
20 of the following thresholds:

21 (1) has annual gross revenues in excess of Fifteen
22 Million Dollars (\$15,000,000.00) in the preceding
23 calendar year,
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1 (2) alone or in combination, annually buys, receives,
2 shares, or discloses for commercial purposes,
3 alone or in combination, the personal information
4 of twenty-five thousand or more consumers,
5 households, or devices, or

6 (3) derives fifty percent (50%) or more of its annual
7 revenues from sharing consumers' personal
8 information,

9 b. any entity that controls or is controlled by a
10 business, as defined in subparagraph a of this
11 paragraph, and that shares common branding with the
12 business and with whom the business shares consumers'
13 personal information. "Control" or "controlled" means
14 ownership of, or the power to vote, more than fifty
15 percent (50%) of the outstanding shares of any class
16 of voting security of a business; control in any
17 manner over the election of a majority of the
18 directors, or of individuals exercising similar
19 functions; or the power to exercise a controlling
20 influence over the management of a business. "Common
21 branding" means a shared name, service mark, or
22 trademark, such that the average consumer would
23 understand that two or more entities are commonly
24 owned, or

1 c. a joint venture or partnership composed of businesses
2 in which each business has at least a forty-percent
3 interest. For purposes of this act, the joint venture
4 or partnership and each business that comprises the
5 joint venture or partnership shall separately be
6 considered a single business, except that personal
7 information in the possession of each business and
8 disclosed to the joint venture or partnership shall
9 not be shared with the other businesses;

10 4. "Business purpose" means the use of personal information

11 for:

12 a. the following operational purposes of a business or
13 service provider, provided that the use of the
14 information is reasonably necessary and proportionate
15 to achieve the operational purpose for which the
16 information was collected or processed or another
17 operational purpose that is compatible with the
18 context in which the information was collected:

19 (1) auditing related to a current interaction with a
20 consumer and any concurrent transactions,
21 including counting ad impressions to unique
22 visitors, verifying the positioning and quality
23 of ad impressions, and auditing compliance with a
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1 specification or other standards for ad
2 impressions,

3 (2) detecting a security incident; protecting against
4 malicious, deceptive, fraudulent, or illegal
5 activity; and prosecuting those responsible for
6 any illegal activity described by this division,

7 (3) identifying and repairing or removing errors that
8 impair the intended functionality of computer
9 hardware or software,

10 (4) using personal information in the short term or
11 for a transient use, provided that the
12 information is not:

13 (a) disclosed to a third party, or

14 (b) used to build a profile about a consumer or
15 alter an individual consumer's experience
16 outside of a current interaction with the
17 consumer, including the contextual
18 customization of an advertisement displayed
19 as part of the same interaction,

20 (5) performing a service on behalf of the business or
21 service provider, including:

22 (a) maintaining or servicing an account,
23 providing customer service, processing or
24 fulfilling an order or transaction,

1 verifying consumer information, processing a
2 payment, providing financing, providing
3 advertising or marketing services, or
4 providing analytic services, or

5 (b) performing a service similar to a service
6 described by subdivision (a) of this
7 division on behalf of the business or
8 service provider,

9 (6) undertaking internal research for technological
10 development and demonstration,

11 (7) undertaking an activity to:

12 (a) verify or maintain the quality or safety of
13 a service or device that is owned by,
14 manufactured by, manufactured for, or
15 controlled by the business, or

16 (b) improve, upgrade, or enhance a service or
17 device described by subdivision (a) of this
18 division, or

19 (8) retention of employment data, or

20 b. another operational purpose for which notice is given
21 under this act, but specifically excepting cross-
22 context targeted advertising, unless the consumer has
23 opted in to the same;

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1 5. "Collects", "collected", or "collection" means buying,
2 renting, gathering, obtaining, receiving, or accessing any personal
3 information pertaining to a consumer by any means. This includes
4 receiving information from the consumer, either actively or
5 passively, or by observing the consumer's behavior;

6 6. "Commercial purposes" means to advance a person's commercial
7 or economic interests, such as by inducing another person to buy,
8 rent, lease, join, subscribe to, provide, or exchange products,
9 goods, property, information, or services, or enabling or effecting,
10 directly or indirectly, a commercial transaction. Commercial
11 purposes do not include engaging in speech that state or federal
12 courts have recognized as noncommercial speech, including political
13 speech and journalism;

14 7. "Consumer" means a natural person who is an Oklahoma
15 resident. It does not include an employee or contractor of a
16 business acting in his or her role as an employee or contractor;

17 8. "De-identified" means information that cannot reasonably
18 identify, relate to, describe, reasonably be associated with, or
19 reasonably be linked, directly or indirectly, to a particular
20 consumer, provided that the business:

21 a. takes reasonable measures to ensure that the data
22 could not be re-identified,

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1 b. publicly commits to maintain and use the data in a de-
2 identified fashion and not to attempt to re-identify
3 the data, and

4 c. contractually prohibits downstream recipients from
5 attempting to re-identify the data;

6 9. "Designated methods for submitting requests" means a mailing
7 address, email address, Internet web page, Internet web portal,
8 telephone number, or other applicable contact information, whereby
9 consumers may submit a request under this act;

10 10. "Device" means any physical object that is capable of
11 connecting to the Internet, directly or indirectly, or to another
12 device;

13 11. "Identifier" means data elements or other information that
14 alone or in conjunction with other information can be used to
15 identify a particular consumer, household, or device that is linked
16 to a particular consumer or household;

17 12. "Intentionally interacts" means when the consumer intends
18 to interact with a person via one or more deliberate interactions,
19 such as visiting the person's website or purchasing a good or
20 service from the person. Hovering over, muting, pausing, or closing
21 a given piece of content, or using a communications service to
22 interact with a third-party website, does not constitute a
23 consumer's intent to interact with a person;

1 13. "Internet service provider" means a person who provides a
2 mass-market retail service by wire or radio that provides the
3 capability to transmit data and to receive data from all or
4 substantially all Internet endpoints, including any capabilities
5 that are incidental to and enable the operations of the service,
6 excluding dial-up Internet access service;

7 14. "Operational purpose" means the use of personal information
8 when reasonably necessary and proportionate to achieve one of the
9 following purposes, if such usage is limited to the first-party
10 relationship and consumer experience:

- 11 a. debugging to identify and repair errors that impair
12 existing intended functionality,
- 13 b. undertaking internal research for technological
14 development, analytics, and product improvement, based
15 on information collected by the business,
- 16 c. undertaking activities to verify or maintain the
17 quality or safety of a service or device that is
18 owned, manufactured, manufactured for, or controlled
19 by the business, or to improve, upgrade, or enhance
20 the service or device that is owned, manufactured,
21 manufactured for, or controlled by the business,
- 22 d. customization of content based on information
23 collected by the business, or

1 e. customization of advertising or marketing based on
2 information collected by the business;

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

7 16. "Personal information" means information that identifies,
8 relates to, describes, can be associated with, or can reasonably be
9 linked to, directly or indirectly, a particular consumer or
10 household. The term includes the following categories of
11 information if the information identifies, relates to, describes,
12 can be associated with, or can reasonably be linked to, directly or
13 indirectly, a particular consumer or household:

14 a. an identifier, including a real name, alias, mailing
15 address, account name, date of birth, driver license
16 number, unique identifier, Social Security number,
17 passport number, signature, telephone number, or other
18 government-issued identification number, or other
19 similar identifier,

20 b. an online identifier, including an email address or
21 Internet Protocol address, or other similar
22 identifier,
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- 1 c. a physical characteristic or description, including a
2 characteristic of a protected classification under
3 state or federal law,
- 4 d. commercial information, including:
- 5 (1) a record of personal property,
6 (2) a good or service purchased, obtained, or
7 considered,
8 (3) an insurance policy number, or
9 (4) other purchasing or consuming histories or
10 tendencies,
- 11 e. biometric information,
- 12 f. Internet or other electronic network activity
13 information, including:
- 14 (1) browsing or search history, and
15 (2) other information regarding a consumer's
16 interaction with an Internet website,
17 application, or advertisement,
- 18 g. geolocation data,
- 19 h. audio, electronic, visual, thermal, olfactory, or
20 other similar information,
- 21 i. professional or employment-related information,
- 22 j. education information that is not publicly available
23 personally identifiable information under the federal
24 Family Educational Rights and Privacy Act of 1974,

- k. financial information, including a financial institution account number, credit or debit card number, or password or access code associated with a credit or debit card or bank account,
- l. medical information,
- m. health insurance information, or
- n. inferences drawn from any of the information listed under this paragraph to create a profile about a consumer that reflects the consumer's preferences, characteristics, psychological trends, predispositions, behaviors, attitudes, intelligence, abilities, or aptitudes;

17. "Processing" means any operation or set of operations that are performed on personal information or on sets of personal information, whether or not by automated means;

18. "Publicly available information" means information that is lawfully made available to the public from federal, state, or local government records or information received from widely distributed media or by the consumer in the public domain. The term does not include:

- a. biometric information of a consumer collected by a business without the consumer's knowledge or consent, or
- b. de-identified or aggregate consumer information;

1 19. "Service" or "services" means work, labor, and services,
2 including services furnished in connection with the production,
3 sale, or repair of goods;

4 20. "Service provider" means a person who processes personal
5 information on behalf of a business and to which the business
6 discloses a consumer's personal information pursuant to a written or
7 electronic contract, provided that:

- 8 a. the contract prohibits the person from retaining,
9 using, or disclosing the personal information for any
10 purpose other than for the specific purpose of
11 performing the services specified in the contract for
12 the business, including a prohibition on retaining,
13 using, or disclosing the personal information for a
14 commercial purpose other than providing the services
15 specified in the contract with the business, and
- 16 b. the service provider does not combine the personal
17 information which the service provider receives from,
18 or on behalf of, the business with personal
19 information which the service provider receives from,
20 or on behalf of, another person or persons, or
21 collects from its own interaction with consumers;

22 21. "Share" means renting, releasing, disclosing,
23 disseminating, making available, transferring, or otherwise
24 communicating orally, in writing, or by electronic or other means, a

1 consumer's personal information by the business to a third party for
2 monetary or other valuable consideration, or otherwise for a
3 commercial purpose. For purposes of this act, a business does not
4 share personal information when:

5 a. a consumer uses or directs the business to
6 intentionally disclose personal information or uses
7 the business to intentionally interact with one or
8 more third parties, provided the third party or
9 parties do not also share the personal information,
10 unless that disclosure would be consistent with the
11 provisions of this act,

12 b. the business discloses the personal information of a
13 consumer to a service provider and the business has
14 provided notice that the information is being used or
15 disclosed in its terms and conditions consistent with
16 Section 10 of this act, and

17 c. a business transfers to a third party the personal
18 information of a consumer as an asset that is part of
19 a merger, acquisition, bankruptcy, or other
20 transaction in which the third party assumes control
21 of all or part of the business; provided that
22 information is used or disclosed consistently with
23 this act. A third party may not materially alter how
24 it uses or discloses the personal information of a

1 consumer in a manner that is materially inconsistent
2 with the promises made at the time of collection;

3 22. "Third party" means a person who is not any of the
4 following:

- 5 a. the business with whom the consumer intentionally
6 interacts and that collects personal information from
7 the consumer as part of the consumer's current
8 interaction with the business under this act, or
- 9 b. a service provider to whom the business discloses a
10 consumer's personal information pursuant to a written
11 contract, which includes a certification made by the
12 person receiving the personal information that the
13 person understands the restrictions created under this
14 act and will comply with them;

15 23. "Unique identifier" means a persistent identifier that can
16 be used over time and across different services to recognize a
17 consumer, a custodial parent or guardian, or any minor children over
18 which the parent or guardian has custody, or a device that is linked
19 to those individuals. The term includes:

- 20 a. a device identifier,
- 21 b. an Internet Protocol address,
- 22 c. a cookie, beacon, pixel tag, mobile ad identifier, or
23 similar technology,
- 24 d. a customer number, unique pseudonym, or user alias,

- e. a telephone number, and
- f. another form of a persistent or probabilistic identifier that can be used to identify a particular consumer or device; and

24. "Verifiable consumer request" means a request that is made by a consumer, by a consumer on behalf of the consumer's minor child, or by a natural person or a person registered with the Secretary of State, authorized by the consumer to act on the consumer's behalf, and that the business can reasonably verify. A business is not obligated to provide any personal information to a consumer pursuant to Section 13 of this act, to delete personal information pursuant to Section 12 of this act, or to correct inaccurate personal information pursuant to Section 14 of this act if the business cannot verify that the consumer making the request is the consumer about whom the business has collected personal information or is a person authorized by the consumer to act on such consumer's behalf.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404 of Title 75A, unless there is created a duplication in numbering, reads as follows:

The Attorney General shall be responsible for enforcing this act. Any person, business, or service provider that violates this act may be liable for a civil penalty of up to Seven Thousand Five Hundred Dollars (\$7,500.00) for each intentional violation and up to

1 Two Thousand Five Hundred Dollars (\$2,500.00) for each unintentional
2 violation. The court may consider punitive damages in addition to
3 the statutorily provided damages if requested by the Attorney
4 General. Additionally, the Attorney General may seek injunctive
5 relief to prevent repetitive violations of this act. The Attorney
6 General shall be entitled to recover all reasonable fees and costs,
7 including any expert witness fees, if a prevailing party. Any funds
8 recovered under this statute shall be retained in a dedicated
9 account in the General Revenue Fund for the Attorney General.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 405 of Title 75A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. This act applies only to:

14 1. A business that:

15 a. does business in this state,

16 b. collects consumers' personal information or has that
17 information collected on the business's behalf,

18 c. alone or in conjunction with others, determines the
19 purpose for and means of processing consumers'
20 personal information, and

21 d. satisfies one or more of the following thresholds:

22 (1) has annual gross revenue in an amount that

23 exceeds Fifteen Million Dollars (\$15,000,000.00),
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1 (2) alone or in conjunction with others, annually
2 buys, sells, or receives or shares for commercial
3 purposes the personal information of fifty
4 thousand or more consumers, households, or
5 devices, or

6 (3) derives twenty-five percent (25%) or more of the
7 business's annual revenue from selling consumers'
8 personal information; and

9 2. An entity that controls or is controlled by a business
10 described by paragraph 1 of this subsection and that shares the same
11 or substantially similar brand name and/or common database for
12 consumers' personal information. For purposes of this paragraph,
13 "control" means the:

- 14 a. ownership of, or power to vote, more than fifty
15 percent (50%) of the outstanding shares of any class
16 of voting security of a business,
17 b. power in any manner over the election of a majority of
18 the directors or of individuals exercising similar
19 functions, or
20 c. power to exercise a controlling influence over the
21 management of a company.

22 B. For purposes of this act, a business sells a consumer's
23 personal information to another business or a third party if the
24 business sells, rents, discloses, disseminates, makes available,

1 transfers or otherwise communicates, orally, in writing, or by
2 electronic or other means, the information to the other business or
3 third party for monetary or other valuable consideration.

4 C. For purposes of this act, a business does not sell a
5 consumer's personal information if:

6 1. The consumer directs the business to intentionally disclose
7 the information or uses the business to intentionally interact with
8 a third party, provided that the third party does not sell the
9 information, unless that disclosure is consistent with this act; or

10 2. The business:

11 a. uses or shares an identifier of the consumer to alert
12 a third party that the consumer has opted out of the
13 sale of the information,

14 b. uses or shares with a service provider a consumer's
15 personal information that is necessary to perform a
16 business purpose if:

17 (1) the business provided notice that the information
18 is being used or shared in the business's terms
19 and conditions consistent with Sections 25 and 29
20 of this act, and

21 (2) the service provider does not further collect,
22 sell, or use the information except as necessary
23 to perform the business purpose, or

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1 c. transfers to a third party a consumer's personal
2 information as an asset that is part of a merger,
3 acquisition, bankruptcy, or other transaction in which
4 the third party assumes control of all or part of the
5 business; provided that information is used or shared
6 consistent with this act.

7 D. For purposes of paragraph 1 of subsection C of this section,
8 an intentional interaction occurs if the consumer does one or more
9 deliberate acts with the intent to interact with a third party.
10 Placing a cursor over, muting, pausing, or closing online content
11 does not constitute a consumer's intent to interact with a third
12 party. Instead, said deliberate act must be consent to such
13 interaction as defined herein.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 406 of Title 75A, unless there
16 is created a duplication in numbering, reads as follows:

17 A. This act does not apply to:

- 18 1. Publicly available information;
- 19 2. Medical information governed by state privacy health laws or
20 protected health information that is collected by a covered entity
21 or business associate governed by the privacy, security, and data
22 breach notification rules issued by the United States Department of
23 Health and Human Services, Parts 160 and 164 of Title 45 of the Code
24 of Federal Regulations, established pursuant to the federal Health

1 Insurance Portability and Accountability Act of 1996 (Public Law
2 104-191) and the federal Health Information Technology for Economic
3 and Clinical Health Act, Title XIII of the federal American Recovery
4 and Reinvestment Act of 2009 (Public Law 111-5);

5 3. A provider of health care, or a health plan, governed by
6 state privacy health laws or a covered entity governed by the
7 privacy, security, and data breach notification rules issued by the
8 United States Department of Health and Human Services, Parts 160 and
9 164 of Title 45 of the Code of Federal Regulations, established
10 pursuant to the federal Health Insurance Portability and
11 Accountability Act of 1996 (Public Law 104-191), to the extent the
12 provider or covered entity maintains, uses, and discloses patient
13 information in the same manner as medical information or protected
14 health information as described in paragraph 2 of this subsection;

15 4. A business associate of a covered entity governed by the
16 privacy, security, and data breach notification rules issued by the
17 United States Department of Health and Human Services, Parts 160 and
18 164 of Title 45 of the Code of Federal Regulations, established
19 pursuant to the federal Health Insurance Portability and
20 Accountability Act of 1996 (Public Law 104-191) and the federal
21 Health Information Technology for Economic and Clinical Health Act,
22 Title XIII of the federal American Recovery and Reinvestment Act of
23 2009 (Public Law 111-5), to the extent that the business associate
24 maintains, uses, and discloses patient information in the same

1 manner as medical information or protected health information as
2 described in paragraph 2 of this subsection;

3 5. Information that meets both of the following conditions:

4 a. is de-identified in accordance with the requirements
5 for de-identification set forth in Section 164.514 of
6 Part 164 of Title 45 of the Code of Federal
7 Regulations, and

8 b. is derived from patient information that was
9 originally collected, created, transmitted, or
10 maintained by an entity regulated by the Health
11 Insurance Portability and Accountability Act of 1996
12 or the Federal Policy for the Protection of Human
13 Subjects, also known as the Common Rule.

14 Information that meets the requirements of subparagraph a or b
15 of this paragraph but is subsequently re-identified shall no longer
16 be eligible for the exemption in this paragraph and shall be subject
17 to applicable federal and state data privacy and security laws,
18 including, but not limited to, the Health Insurance Portability and
19 Accountability Act of 1996 and state medical privacy laws;

20 6. Information that is collected, used, or disclosed in
21 research, as defined in Section 164.501 of Title 45 of the Code of
22 Federal Regulations, including, but not limited to, a clinical
23 trial, and that is conducted in accordance with applicable ethics,
24 confidentiality, privacy, and security rules of Part 164 of Title 45

1 of the Code of Federal Regulations, the Federal Policy for the
2 Protection of Human Subjects, also known as the Common Rule, good
3 clinical practice guidelines issued by the International Council for
4 Harmonisation of Technical Requirements for Pharmaceuticals for
5 Human Use, or human subject protection requirements of the United
6 States Food and Drug Administration;

7 7. The sale of personal information to or by a consumer
8 reporting agency if the information is to be:

- 9 a. reported in or used to generate a consumer report, as
10 defined by Section 1681a(d) of the Fair Credit
11 Reporting Act (15 U.S.C., Section 1681 et seq.), and
- 12 b. used solely for a purpose authorized under that act;

13 8. Personal information collected, processed, sold, or
14 disclosed in accordance with:

- 15 a. the federal Gramm-Leach-Bliley Act of 1999 (Public Law
16 106-102) and its implementing regulations, or
- 17 b. the federal Driver's Privacy Protection Act of 1994
18 (18 U.S.C., Section 2721 et seq.);

19 9. De-identified or aggregate consumer information; or

20 10. A consumer's personal information collected or sold by a
21 business, if every aspect of the collection or sale occurred wholly
22 outside of this state.

23 Provided further, nothing in this act shall be deemed to apply
24 in any manner to a financial institution or an affiliate of a

1 financial institution that is subject to the federal Gramm-Leach-
2 Bliley Act of 1999 and the rules promulgated thereunder.

3 B. For the purposes of this section, a business or other person
4 shall not re-identify, or attempt to re-identify, information that
5 has met the requirements of paragraphs 2 through 6 of subsection A
6 of this section, except for one or more of the following purposes:

7 1. Treatment, payment, or health care operations conducted by a
8 covered entity or business associate acting on behalf of, and at the
9 written direction of, the covered entity. For purposes of this
10 paragraph, "treatment", "payment", "health care operations", and
11 "covered entity" have the same meaning as defined in Section 164.501
12 of Title 45 of the Code of Federal Regulations, and "business
13 associate" has the same meaning as defined in Section 160.103 of
14 Title 45 of the Code of Federal Regulations;

15 2. Public health activities or purposes as described in Section
16 164.512 of Title 45 of the Code of Federal Regulations;

17 3. Research, as defined in Section 164.501 of Title 45 of the
18 Code of Federal Regulations, that is conducted in accordance with
19 Part 46 of Title 45 of the Code of Federal Regulations and the
20 Federal Policy for the Protection of Human Subjects, also known as
21 the Common Rule;

22 4. Pursuant to a contract where the lawful holder of the de-
23 identified information expressly engages a person or entity to
24 attempt to re-identify the de-identified information in order to

1 conduct testing, analysis, or validation of de-identification, or
2 related statistical techniques, if the contract bans any other use
3 or disclosure of the re-identified information and requires the
4 return or destruction of the information that was re-identified upon
5 completion of the contract; and

6 5. If otherwise required by law.

7 C. In accordance with paragraphs 2 through 6 of subsection A of
8 this section, information re-identified pursuant to this section
9 shall be subject to applicable federal and state data privacy and
10 security laws, including, but not limited to, the Health Insurance
11 Portability and Accountability Act of 1996 and state health privacy
12 laws.

13 D. Beginning January 1, 2023, any contract for the sale or
14 license of de-identified information that has met the requirements
15 of paragraphs 2 through 6 of subsection A of this section, where one
16 of the parties is a person residing or doing business in the state,
17 shall include the following, or substantially similar, provisions:

18 1. A statement that the de-identified information being sold or
19 licensed includes de-identified patient information;

20 2. A statement that re-identification, and attempted re-
21 identification, of the de-identified information by the purchaser or
22 licensee of the information is prohibited pursuant to this section;

23 and

24

1 3. A requirement that, unless otherwise required by law, the
2 purchaser or licensee of the de-identified information may not
3 further disclose the de-identified information to any third party
4 unless the third party is contractually bound by the same or
5 stricter restrictions and conditions.

6 E. For purposes of this section, "re-identify" means the
7 process of reversal of de-identification techniques, including, but
8 not limited to, the addition of specific pieces of information or
9 data elements that can, individually or in combination, be used to
10 uniquely identify an individual or usage.

11 F. For purposes of paragraph 10 of subsection A of this
12 section, the collection or sale of a consumer's personal information
13 occurs wholly outside of this state if:

14 1. The business collects that information while the consumer is
15 outside of this state;

16 2. No part of the sale of the information occurs in this state;
17 and

18 3. The business does not sell any personal information of the
19 consumer collected while the consumer is in this state.

20 G. For purposes of subsection F of this section, the collection
21 or sale of a consumer's personal information does not occur wholly
22 outside of this state if a business stores a consumer's personal
23 information, including on a device, when the consumer is in this
24

1 state and subsequently collects or sells that stored information
2 when the consumer and the information are outside of this state.

3 H. For purposes of this section, all of the following shall
4 apply:

5 1. "Business associate" has the same meaning as defined in
6 Section 160.103 of Title 45 of the Code of Federal Regulations;

7 2. "Covered entity" except for paragraph 1 of subsection B of
8 this section has the same meaning as defined in Section 160.103 of
9 Title 45 of the Code of Federal Regulations;

10 3. "Identifiable private information" has the same meaning as
11 defined in Section 46.102 of Title 45 of the Code of Federal
12 Regulations;

13 4. "Individually identifiable health information" has the same
14 meaning as defined in Section 160.103 of Title 45 of the Code of
15 Federal Regulations;

16 5. "Medical information" means any individually identifiable
17 information, in electronic or physical form, in possession of or
18 derived from a provider of health care, health care service plan,
19 pharmaceutical company, or contractor regarding a patient's medical
20 history, mental or physical condition, or treatment;

21 6. "Patient information" means identifiable private
22 information, protected health information, individually identifiable
23 health information, or medical information;

24

1 7. "Protected health information" has the same meaning as
2 defined in Section 160.103 of Title 45 of the Code of Federal
3 Regulations; and

4 8. "Provider of health care" means a person or entity that is a
5 covered entity.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 407 of Title 75A, unless there
8 is created a duplication in numbering, reads as follows:

9 A right or obligation under this act does not apply to the
10 extent that the exercise of the right or performance of the
11 obligation infringes on a noncommercial activity of:

12 1. A publisher, editor, reporter, or other person connected
13 with or employed by a newspaper, magazine, or other publication of
14 general circulation, including a periodical newsletter, pamphlet, or
15 report;

16 2. A radio or television station that holds a license issued by
17 the Federal Communications Commission; or

18 3. An entity that provides an information service, including a
19 press association or wire service.

20 SECTION 9. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 408 of Title 75A, unless there
22 is created a duplication in numbering, reads as follows:

23 This act does not:

24 1. Restrict a business's ability to:

- 1 a. comply with:
- 2 (1) applicable federal, state, or local laws, or
- 3 (2) a civil, criminal, or regulatory inquiry,
- 4 investigation, subpoena, or summons by a federal,
- 5 state, or local authority,
- 6 b. cooperate with a law enforcement agency concerning
- 7 conduct or activity that the business, a service
- 8 provider of the business, or a third party reasonably
- 9 and in good faith believes may violate other
- 10 applicable federal, state, or local laws,
- 11 c. pursue or defend against a legal claim,
- 12 d. detect a security incident; protect against malicious,
- 13 deceptive, fraudulent, or illegal activity; and
- 14 prosecute those responsible for any illegal activity
- 15 described by this paragraph, and
- 16 e. assist another party with any of the foregoing; or

17 2. Require a business to violate an evidentiary privilege under

18 federal or state law or prevent a business from disclosing to a

19 person covered by an evidentiary privilege the personal information

20 of a consumer as part of a privileged communication.

21 SECTION 10. NEW LAW A new section of law to be codified

22 in the Oklahoma Statutes as Section 409 of Title 75A, unless there

23 is created a duplication in numbering, reads as follows:

24

1 A business covered by this act shall disclose the following
2 information to consumers in a clear and conspicuous manner in its
3 privacy policy, which shall be written in plain language and shall
4 be available prior to any data collection, and shall be updated if
5 any terms or conditions change:

6 1. The manner and method by which a consumer may exercise his
7 or her rights pursuant to Sections 11, 12, 13, and 14 of this act;

8 2. The personal information collected from consumers;

9 3. The reasons the business collects, discloses, or retains
10 personal information;

11 4. Whether the business discloses personal information and, if
12 so, what information is disclosed and to whom;

13 5. Whether the business shares personal information with
14 service providers and, if so, the categories of service providers;
15 and

16 6. The length of time that the business retains personal
17 information.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 410 of Title 75A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A business covered by this act shall only collect and/or
22 share information with third parties that is reasonably necessary to
23 provide a good or service to a consumer who has requested the same
24 or is reasonably necessary for security purposes or fraud detection.

1 The monetization of personal information shall never be considered
2 reasonably necessary for any purpose.

3 B. A business covered by this act shall limit its use and
4 retention of a consumer's personal information to that which is
5 reasonably necessary to provide a service or conduct an activity
6 that a consumer has requested or for a related operational purpose.

7 C. A business covered by this act shall apprise any consumer
8 whose data is collected that the consumer has the right to opt out
9 of personalized advertising and the business shall have the duty to
10 comply with the request promptly and free of charge. Such
11 notification shall be made in a clear and conspicuous manner on the
12 business's homepage.

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 411 of Title 75A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Consumers have the right to request that a business delete
17 any personal information retained by the business about the
18 consumer, and a business covered by this act shall inform consumers
19 of such right in accordance with Section 10 of this act.

20 B. Upon receipt of a verifiable consumer request to delete a
21 consumer's personal information, a business shall delete the
22 personal information from its records and advise any service
23 providers holding the consumer's personal information to delete the
24 consumer's personal information as well.

1 C. If the consumer's personal information is necessary:

2 1. To complete the transaction that was requested by the
3 consumer;

4 2. To fulfill contractual obligations between the consumer and
5 the business;

6 3. To detect or act upon security threats, including malicious
7 or illegal activities, and to prosecute individuals responsible for
8 security threats;

9 4. To ensure quality control functions;

10 5. To exercise constitutionally protected speech;

11 6. To engage in public or peer-reviewed research that adheres
12 to all applicable ethics and privacy laws; or

13 7. To comply with legal obligations,
14 then the business shall have the right to reject such consumer's
15 request and shall advise the consumer of the reason why such request
16 was rejected.

17 SECTION 13. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 412 of Title 75A, unless there
19 is created a duplication in numbering, reads as follows:

20 After receiving a verifiable consumer request from a consumer
21 requesting to know what information is retained by a business about
22 the consumer, the business shall disclose the specific personal
23 information retained by the business about the consumer. Such
24 disclosure shall be in an electronic, portable, machine-readable,

1 and readily usable format to the consumer. Additionally, to the
2 extent the business has disclosed personal information of a consumer
3 to a third party or service provider, said business shall disclose,
4 in the same manner and method as previously described, the names and
5 contact information of such third parties or service providers.

6 SECTION 14. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 413 of Title 75A, unless there
8 is created a duplication in numbering, reads as follows:

9 A business shall advise a consumer, in accordance with Section
10 16 of this act, that the consumer has the right to request
11 correction of inaccurate personal information, and a consumer shall
12 have the right to require a business to correct such inaccurate
13 information. Upon receipt of a verifiable consumer request, a
14 business shall take all reasonable steps to correct the inaccurate
15 information, in accordance with Section 16 of this act.

16 SECTION 15. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 414 of Title 75A, unless there
18 is created a duplication in numbering, reads as follows:

19 No business shall deny goods or services to a consumer by virtue
20 of the consumer's exercise of any rights in this act. Further, no
21 business shall charge a different price or provide a different
22 quality of service or good by virtue of the consumer's exercise of
23 any rights under this act. Provided, a business may offer
24 discounted or free goods or services to a consumer if the consumer

1 voluntarily participates in a program that rewards consumers for
2 repeated transactions with the business and if the business does not
3 share the consumer's data with third parties.

4 SECTION 16. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 415 of Title 75A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A business covered by this act shall provide at least two
8 points of contact that are easily accessible and readily
9 identifiable by which a consumer may make the requests permitted
10 under this act, at least one of which must be the business's
11 website, unless a business covered by this act does not have a
12 website, in which case the business must provide a telephone number
13 as one of the two methods by which a consumer may contact the
14 business.

15 B. Any disclosure and/or delivery of information from a
16 business to a consumer under this act must be provided free of
17 charge and within forty-five (45) days of receipt of a verifiable
18 consumer request. If it is not reasonably possible to provide the
19 information within forty-five (45) days, the business may extend the
20 deadline by forty-five (45) days by providing notice to the consumer
21 of such election and the basis for the same.

22 C. If personal information is collected by a business to verify
23 the consumer's identity, then that personal information is limited
24

1 in usage solely to the verification process and shall thereafter be
2 permanently deleted.

3 D. A business is not obligated to provide the information
4 identified in Section 13 of this act more than twice during any
5 twelve-month period for each consumer.

6 E. A business or service provider shall implement and maintain
7 reasonable security procedures and practices, including
8 administrative, physical, and technical safeguards, appropriate to
9 the nature of the information and the purposes for which the
10 personal information will be used, to protect consumers' personal
11 information from unauthorized use, disclosure, access, destruction,
12 or modification.

13 SECTION 17. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 416 of Title 75A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The obligations imposed on businesses by this act shall not
17 restrict a business's or service provider's ability to:

- 18 1. Comply with federal, state, or local laws;
- 19 2. Comply with a civil, criminal, or regulatory inquiry,
20 investigation, subpoena, or summons by federal, state, or local
21 authorities;

- 22 3. Cooperate with law enforcement agencies concerning conduct
23 or activity that the business, service provider, or third party
24

1 reasonably and in good faith believes may violate federal, state, or
2 local law;

3 4. Exercise or defend legal claims;

4 5. Collect, use, retain, share, or disclose consumer
5 information that is de-identified or in the aggregate derived from
6 personal information; and

7 6. Collect or share a consumer's personal information if every
8 aspect of that commercial conduct takes place wholly outside of the
9 State of Oklahoma. For purposes of this act, commercial conduct
10 takes place wholly outside of the State of Oklahoma if a business
11 collected that information while the consumer was present outside of
12 the State of Oklahoma, no part of the sharing of the consumer's
13 personal information occurred in the State of Oklahoma, and no
14 personal information was collected while the consumer was present in
15 the State of Oklahoma. This paragraph shall not permit a business
16 from storing, including on a device, personal information about a
17 consumer when the consumer is present in the State of Oklahoma and
18 then later collecting that personal information when the consumer
19 and stored personal information is located outside of the State of
20 Oklahoma.

21 B. Nothing in this act shall require a business to violate an
22 evidentiary privilege under Oklahoma law or federal law, or prevent
23 a business from providing the personal information of a consumer who
24

1 is covered by an evidentiary privilege under Oklahoma law as part of
2 a privileged communication.

3 C. 1. This act shall not apply to any of the following:

4 a. protected health information that is collected by a
5 covered entity or business associate governed by the
6 privacy, security, and breach notification rules
7 issued by the United States Department of Health and
8 Human Services, Parts 160 and 164 of Title 45 of the
9 Code of Federal Regulations, established pursuant to
10 the Health Insurance Portability and Accountability
11 Act of 1996 (Public Law 104-191) and the Health
12 Information Technology for Economic and Clinical
13 Health Act (Public Law 111-5),

14 b. a covered entity governed by the privacy, security,
15 and breach notification rules issued by the United
16 States Department of Health and Human Services, Parts
17 160 and 164 of Title 45 of the Code of Federal
18 Regulations, established pursuant to the Health
19 Insurance Portability and Accountability Act of 1996
20 (Public Law 104-191), to the extent the provider or
21 covered entity maintains patient information in the
22 same manner as medical information or protected health
23 information as described in subparagraph a of this
24 paragraph, and

1 c. personal information collected as part of a clinical
2 trial subject to the Federal Policy for the Protection
3 of Human Subjects, also known as the Common Rule,
4 pursuant to good clinical practice guidelines issued
5 by the International Council for Harmonization of
6 Technical Requirements for Pharmaceuticals for Human
7 Use or pursuant to human subject protection
8 requirements of the United States Food and Drug
9 Administration.

10 2. For purposes of this subsection, the definition of "medical
11 information" means any individually identifiable information, in
12 electronic or physical form, in possession of or derived from a
13 provider of health care, health care service plan, pharmaceutical
14 company, or contractor regarding a patient's medical history, mental
15 or physical condition, or treatment. "Individually identifiable"
16 means that the medical information includes or contains any element
17 of personal identifying information sufficient to allow
18 identification of the individual, such as the patient's name,
19 address, email address, telephone number, or Social Security number,
20 or other information that, alone or in combination with other
21 publicly available information, reveals the individual's identity.
22 Furthermore, the definitions of "business associate", "covered
23 entity", and "protected health information" in Section 160.103 of
24 Title 45 of the Code of Federal Regulations shall apply.

1 D. This act shall not apply to activity involving the
2 collection, maintenance, disclosure, sale, communication, or use of
3 any personal information bearing on a consumer's credit worthiness,
4 credit standing, credit capacity, character, general reputation,
5 personal characteristics, or mode of living by a consumer reporting
6 agency, as defined by subdivision (f) of Section 1681a of Title 15
7 of the United States Code, by a furnisher of information, as set
8 forth in Section 1681s-2 of Title 15 of the United States Code, who
9 provides information for use in a consumer report, as defined in
10 subdivision (d) of Section 1681a of Title 15 of the United States
11 Code, and by a user of a consumer report as set forth in Section
12 1681b of Title 15 of the United States Code. This subsection shall
13 only apply to the extent that such activity involving the
14 collection, maintenance, disclosure, sale, communication, or use of
15 such information by that agency, furnisher, or user is subject to
16 regulation under the Fair Credit Reporting Act, Section 1681 et seq.
17 of Title 15 of the United States Code and the information is not
18 collected, maintained, disclosed, sold, communicated, or used except
19 as authorized by the Fair Credit Reporting Act.

20 E. This act shall not apply to personal information collected,
21 processed, sold, or disclosed pursuant to the federal Gramm-Leach-
22 Bliley Act (Public Law 106-102) and implementing regulations.

23
24

1 F. This act shall not apply to personal information collected,
2 processed, sold, or disclosed pursuant to the Driver's Privacy
3 Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.).

4 G. Notwithstanding a business's obligations to respond to and
5 honor consumer rights requests pursuant to this act:

6 1. If a business does not take action on the request of a
7 consumer, the business shall inform the consumer, without delay and
8 at the latest within the time period permitted by this act, of the
9 reasons for not taking action and any rights the consumer may have
10 to appeal the decision to the business; or

11 2. If requests from a consumer are manifestly unfounded or
12 excessive, in particular because of their repetitive character, a
13 business may either charge a reasonable fee, taking into account the
14 administrative costs of providing the information or communication
15 or taking the action requested, or refuse to act on the request and
16 notify the consumer of the reason for refusing the request. The
17 business shall bear the burden of demonstrating that any verifiable
18 consumer request is manifestly unfounded or excessive.

19 H. A business that discloses personal information to a service
20 provider in compliance with this act shall select as service
21 providers entities that are capable of adhering to the restrictions
22 set forth in this act, and enforce compliance in adhering to these
23 restrictions, through effective enforceable contractual obligations
24 and regular evaluation of compliance. A service provider shall not

1 be liable under this act for the obligations of a business for which
2 it provides services as set forth in this act; provided that the
3 service provider shall be liable for its own violations of this act.

4 I. This act shall not be construed to require a business to:

5 1. Comply with a verifiable consumer request to access, delete,
6 or correct personal information pursuant to Section 12, 13, or 14 of
7 this act if all of the following are true:

8 a. (1) the business is not reasonably capable of linking
9 or associating the request with the personal
10 information, and

11 (2) it would be unreasonably burdensome for the
12 business to link or associate the request with
13 the personal information,

14 b. the business does not use the information to recognize
15 or respond to the specific consumer who is the subject
16 of the personal information or link or associate the
17 personal information with other personal information
18 about the same specific consumer, and

19 c. the business does not share the personal information
20 with any third party, or otherwise voluntarily
21 disclose the personal information to any third party
22 other than a service provider except as otherwise
23 permitted in this subsection; and

24

1 2. Maintain information in identifiable, linkable, or
2 associable form, or to collect, obtain, retain, or access any data
3 or technology, in order to be capable of linking or associating a
4 verifiable consumer request with personal information.

5 J. Nothing herein shall apply to the publication of newsworthy
6 information to the public or to the collection or editing of
7 information for that purpose.

8 SECTION 18. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 417 of Title 75A, unless there
10 is created a duplication in numbering, reads as follows:

11 If a series of steps or transactions were component parts of a
12 single transaction intended from the beginning to be taken with the
13 intention of avoiding the reach of this act, a court shall disregard
14 the intermediate steps or transactions for purposes of effectuating
15 the purposes of this act.

16 SECTION 19. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 418 of Title 75A, unless there
18 is created a duplication in numbering, reads as follows:

19 Any provision of a contract or agreement of any kind, including
20 an arbitration agreement, that purports to waive or limit in any way
21 rights under this act, including, but not limited to, any right to a
22 remedy or means of enforcement, shall be deemed contrary to public
23 policy and shall be void and unenforceable.

24

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 419 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 It shall be unlawful for any company to design, modify, or
5 manipulate a user interface with the purpose or substantial effect
6 of obscuring, subverting, or impairing user autonomy, decision-
7 making, or choice, as further defined by regulation.

8 SECTION 21. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 420 of Title 75A, unless there
10 is created a duplication in numbering, reads as follows:

11 Except as used in Section 7 of this act, for purposes of this
12 act, "research" means scientific, systematic study and observation,
13 including basic research or applied research that is in the public
14 interest and that adheres to all other applicable ethics and privacy
15 laws or studies conducted in the public interest in the area of
16 public health. Research with personal information that may have
17 been collected from a consumer in the course of the consumer's
18 interactions with a business's service or device for other purposes
19 must:

20 1. Be compatible with the business purpose for which the
21 personal information was collected;

22 2. Be subsequently pseudonymized and de-identified, or de-
23 identified and in the aggregate, such that the information cannot
24 reasonably identify, relate to, describe, be capable of being

1 associated with, or be linked, directly or indirectly, to a
2 particular consumer;

3 3. Be made subject to technical safeguards that prohibit re-
4 identification of the consumer to whom the information may pertain;

5 4. Be subject to business processes that specifically prohibit
6 re-identification of the information;

7 5. Be made subject to business processes to prevent inadvertent
8 release of de-identified information;

9 6. Be protected from any re-identification attempts;

10 7. Be used solely for research purposes that are compatible
11 with the context in which the personal information was collected;

12 8. Not be used for any commercial purpose; and

13 9. Be subjected by the business conducting the research to
14 additional security controls that limit access to the research data
15 to only those individuals in the business as are necessary to carry
16 out the research purpose.

17 SECTION 22. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 421 of Title 75A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A consumer is entitled to request that a business that
21 collects the consumer's personal information disclose to the
22 consumer the categories and specific items of personal information
23 the business has collected.

24

1 B. To receive the disclosure of information under subsection A
2 of this section, a consumer must submit to the business a verifiable
3 consumer request using a method designated by the business under
4 Section 30 of this act.

5 C. On receipt of a verifiable consumer request under this
6 section, a business shall disclose to the consumer in the time and
7 manner provided by Section 32 of this act:

8 1. Each enumerated category and item within each category of
9 personal information under paragraph 16 of Section 4 of this act
10 that the business collected about the consumer during the twelve
11 (12) months preceding the date of the request;

12 2. Each category of sources from which the information was
13 collected;

14 3. The business or commercial purpose for collecting or selling
15 the personal information; and

16 4. Each category of third parties with whom the business shares
17 the personal information.

18 D. This section does not require a business to:

19 1. Retain a consumer's personal information that was collected
20 for a one-time transaction if the information is not sold or
21 retained in the ordinary course of business; or

22 2. Re-identify or otherwise link any data that, i6 the ordinary
23 course of business, is not maintained in a manner that would be
24 considered personal information.

1 SECTION 23. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 422 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A consumer is entitled to request that a business that
5 collects the consumer's personal information delete any personal
6 information the business has collected from the consumer by
7 submitting a verifiable consumer request using a method designated
8 by the business under Section 30 of this act.

9 B. Except as provided by subsection C of this section, on
10 receipt of a verifiable consumer request under this section, a
11 business shall delete from the business's records any personal
12 information collected from the consumer and direct a service
13 provider of the business to delete the information from the
14 provider's records in the time provided for in Section 32 of this
15 act.

16 C. A business or service provider of the business is not
17 required to comply with a verifiable consumer request received under
18 this section if the business or service provider needs to retain the
19 consumer's personal information to:

20 1. Complete the transaction for which the information was
21 collected;

22 2. Provide a good or service requested by the consumer in the
23 context of the ongoing business relationship between the business
24 and consumer;

1 3. Perform under a contract between the business and the
2 consumer;

3 4. Detect a security incident; protect against malicious,
4 deceptive, fraudulent, or illegal activity; and prosecute those
5 responsible for any illegal activity described by this paragraph;

6 5. Identify and repair or remove errors from computer hardware
7 or software that impair its intended functionality;

8 6. Exercise free speech or ensure the right of another consumer
9 to exercise the right of free speech or another right afforded by
10 law;

11 7. Comply with a court order or subpoena or other lawful
12 process; or

13 8. Engage in public or peer-reviewed scientific, historical, or
14 statistical research that is in the public interest and that adheres
15 to all other applicable ethics and privacy laws, provided that:

16 a. the business's deletion of the information is likely
17 to render impossible or seriously impair the
18 achievement of that research, and

19 b. the consumer has previously provided to the business
20 informed consent to retain the information for such
21 use.

22 D. Where a business, service provider, or third party has made
23 a consumer's personal information public, said business, service
24 provider, or third party shall:

1 1. Take all reasonable steps, including technical measures, to
2 erase the personal information that the business, service provider,
3 or third party made public, taking into account available technology
4 and the cost of implementation; and

5 2. Advise any other business, service provider, or third party
6 with whom a contract regarding the consumer exists that the consumer
7 has requested the erasure of any links to, copies of, or replication
8 of that personal information.

9 SECTION 24. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 423 of Title 75A, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A consumer is entitled to request that a business that
13 sells, or discloses for a business purpose, the consumer's personal
14 information disclose to the consumer:

15 1. The categories of personal information the business
16 collected about the consumer;

17 2. The categories of personal information about the consumer
18 the business sold, or disclosed for a business purpose; and

19 3. The categories of third parties to whom the personal
20 information was sold or disclosed.

21 B. To receive the disclosure of information under subsection A
22 of this section, a consumer must submit to the business a verifiable
23 consumer request using a method designated by the business under
24 Section 30 of this act.

1 C. On receipt of a verifiable consumer request under this
2 section, a business shall disclose to the consumer in the time and
3 manner provided by Section 32 of this act:

4 1. Each enumerated category of personal information under
5 paragraph 16 of Section 4 of this act that the business collected
6 about the consumer during the twelve (12) months preceding the date
7 of the request;

8 2. The categories of third parties to whom the business sold
9 the consumer's personal information during the twelve (12) months
10 preceding the date of the request by reference to each enumerated
11 category of personal information under paragraph 16 of Section 4 of
12 this act sold to each third party; and

13 3. The categories of third parties to whom the business
14 disclosed for a business purpose the consumer's personal information
15 during the twelve (12) months preceding the date of the request by
16 reference to each enumerated category of personal information under
17 paragraph 16 of Section 4 of this act disclosed to each third party.

18 D. A business shall provide the information described by
19 paragraphs 2 and 3 of subsection C of this section in two separate
20 lists.

21 E. A business that did not sell, or disclose for a business
22 purpose, the consumer's personal information during the twelve (12)
23 months preceding the date of receiving the consumer's verifiable
24

1 consumer request under this section shall disclose that fact to the
2 consumer.

3 SECTION 25. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 424 of Title 75A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A consumer is entitled at any time to opt out of the sale of
7 the consumer's personal information by a business to third parties
8 by directing the business not to sell the information. A consumer
9 may authorize another person solely to opt out of the sale of the
10 consumer's personal information on the consumer's behalf. A
11 business shall comply with a direction not to sell that is received
12 under this subsection.

13 B. To exercise the right to opt out specified in subsection A
14 of this section, a consumer shall submit to the business a
15 verifiable consumer request using a method designated by the
16 business under Section 30 of this act.

17 C. A business that sells consumers' personal information to a
18 third party shall provide on the business's Internet website:

19 1. Notice to consumers that:

20 a. the information may be sold,

21 b. identifies the categories of persons to whom the
22 information will or could be sold, and

23 c. consumers have the right to opt in to the sale; and
24

1 2. A clear and conspicuous link that enables a consumer, or
2 person authorized by the consumer, to opt in to the sale of the
3 consumer's personal information.

4 D. A business may not sell to a third party the personal
5 information of a consumer who does not opt in to the sale of that
6 information after the effective date of this act or after a consumer
7 submits a verifiable request to opt out of any future sale.

8 E. A business may use any personal information collected from
9 the consumer in connection with the consumer's opting out under this
10 section solely to comply with this section.

11 F. A third party to whom a business has sold the personal
12 information of a consumer may not sell the information unless the
13 consumer receives explicit notice of the potential sale and is
14 provided the opportunity to, and in fact does, exercise the right to
15 opt in to the sale as provided by this section.

16 G. A business may not require a consumer to create an account
17 with the business to opt in to the sale of the consumer's personal
18 information.

19 H. A business or service provider shall implement and maintain
20 reasonable security procedures and practices, including
21 administrative, physical, and technical safeguards appropriate to
22 the nature of the information and the purposes for which the
23 personal information will be used, to protect consumers' personal
24 information from unauthorized use, disclosure, access, destruction,

1 or modification, irrespective of whether a consumer has opted in or
2 out of a sale of data.

3 SECTION 26. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 425 of Title 75A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Legislature of the State of Oklahoma finds that
7 individuals within Oklahoma have a right to prohibit retention, use,
8 or disclosure of their own personal data.

9 B. The Legislature of the State of Oklahoma further finds that
10 individuals within Oklahoma have previously been exploited for
11 monetary gain and manipulation by private ventures in utilization of
12 private data.

13 C. The Legislature of the State of Oklahoma further finds that
14 the protection of individuals within Oklahoma and their data is a
15 core governmental function in order to protect the health, safety,
16 and welfare of individuals within Oklahoma.

17 D. The Legislature of the State of Oklahoma further finds that
18 the terms and conditions set forth in this act are the least
19 restrictive alternative necessary to protect individuals within
20 Oklahoma and their rights and that the use of a strictly "opt-out"
21 method for data privacy is ineffectual and poses an immediate risk
22 to the health, safety, and welfare of individuals within Oklahoma.

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1 SECTION 27. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 426 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A provision of a contract or other agreement that purports
5 to waive or limit a right, remedy, or means of enforcement under
6 this act is contrary to public policy and is void.

7 B. This section does not prevent a consumer from:

8 1. Declining to request information from a business;

9 2. Declining to opt in to a business's sale of the consumer's
10 personal information; or

11 3. Authorizing a business to sell the consumer's personal
12 information after previously opting out.

13 SECTION 28. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 427 of Title 75A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. After the effective date of this act, a business shall not
17 collect a consumer's personal information directly from the consumer
18 prior to notifying the consumer of each category of personal
19 information to be collected and for what purposes information will
20 be used, as well as obtaining the consumer's consent, which may be
21 provided electronically by the consumer, to collect a consumer's
22 personal information.

23 B. A business may not collect an additional category of
24 personal information directly from the consumer or use personal

1 information collected for an additional purpose unless the business
2 provides notice to the consumer of the additional category or
3 purpose in accordance with subsection A of this section.

4 C. If a third party that assumes control of all or part of a
5 business as described by subparagraph c of paragraph 2 of subsection
6 C of Section 6 of this act materially alters the practices of the
7 business in how personal information is used or shared, and the
8 practices are materially inconsistent with a notice provided to a
9 consumer under subsection A or B of this section, the third party
10 must notify the consumer of the third party's new or changed
11 practices in a conspicuous manner that allows the consumer to easily
12 exercise a right provided under this act before the third party uses
13 or shares the personal information.

14 D. Subsection C of this section does not authorize a business
15 to make a material, retroactive change or other change to a
16 business's privacy policy in a manner that would be a deceptive
17 trade practice actionable under Oklahoma law.

18 SECTION 29. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 428 of Title 75A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A business that collects, sells, or for a business purpose
22 discloses a consumer's personal information shall disclose the
23 following information in the business's online privacy policy or
24 other notice of the business's policies:

1 1. A description of a consumer's rights under Sections 22, 23,
2 24, 25, and 28 of this act and designated methods for submitting a
3 verifiable consumer request under this act;

4 2. For a business that collects personal information about
5 consumers, a description of the consumer's right to request the
6 deletion of the consumer's personal information;

7 3. Separate lists containing the categories of consumers'
8 personal information described by paragraph 16 of Section 4 of this
9 act that, during the twelve (12) months preceding the date the
10 business updated the information as required by subsection C of this
11 section, the business:

12 a. collected,

13 b. sold, if applicable, or

14 c. disclosed for a business purpose, if applicable;

15 4. The categories of sources from which the information under
16 paragraph 3 of this subsection is collected;

17 5. The business or commercial purposes for collecting personal
18 information;

19 6. If the business does not sell consumers' personal
20 information or disclose the information for a business or commercial
21 purpose, a statement of that fact;

22 7. The categories of third parties to whom the business sells
23 or discloses personal information;

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1 8. If the business sells consumers' personal information, the
2 Internet link required by paragraph 2 of subsection C of Section 25
3 of this act; and

4 9. If applicable, the financial incentives offered to consumers
5 under Section 35 of this act.

6 B. If a business described by subsection A of this section does
7 not have an online privacy policy or other notice of the business's
8 policies, the business shall make the information required under
9 subsection A of this section available to consumers on the
10 business's Internet website or another website the business
11 maintains that is dedicated to consumers in this state.

12 C. A business must update the information required by
13 subsection A of this section at least once each year.

14 SECTION 30. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 429 of Title 75A, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A business shall designate and make available to consumers,
18 in a form that is reasonably accessible, at least two methods for
19 submitting a verifiable consumer request for information required to
20 be disclosed or deleted under this act. The methods must include,
21 at a minimum:

22 1. A toll-free telephone number that a consumer may call to
23 submit the request; and

24

1 2. The business's Internet website at which the consumer may
2 submit the request.

3 B. The methods designated under subsection A of this section
4 may also include:

- 5 1. A mailing address;
- 6 2. An email address; or
- 7 3. Another Internet web page or portal.

8 C. A business may not require a consumer to create an account
9 with the business to submit a verifiable consumer request.

10 SECTION 31. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 430 of Title 75A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A business that receives a verifiable consumer request under
14 Section 22, 23, 24, or 25 of this act shall promptly take steps to
15 reasonably verify that:

16 1. The consumer who is the subject of the request is a consumer
17 about whom the business has collected, sold, or for a business
18 purpose disclosed personal information; and

- 19 2. The request is made by:
 - 20 a. the consumer,
 - 21 b. a consumer on behalf of the consumer's minor child, or
 - 22 c. a person authorized to act on the consumer's behalf.

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1 B. A business may use any personal information collected from
2 the consumer in connection with the business's verification of a
3 request under this section solely to verify the request.

4 C. A business that is unable to verify a consumer request under
5 this section is not required to comply with the request.

6 SECTION 32. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 431 of Title 75A, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Not later than forty-five (45) days after the date a
10 business receives a verifiable consumer request under Section 22,
11 23, 24, or 25 of this act, the business shall disclose free of
12 charge to the consumer the information required to be disclosed
13 under those sections or take the requested actions, as applicable.

14 B. A business may extend the time in which to comply with
15 subsection A of this section once by an additional forty-five (45)
16 days if reasonably necessary or by an additional ninety (90) days
17 after taking into account the number and complexity of verifiable
18 consumer requests received by the business. A business that extends
19 the time in which to comply with subsection A of this section shall
20 notify the consumer of the extension and reason for the delay within
21 the period prescribed by that subsection.

22 C. The disclosure required by subsection A of this section
23 must:

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1 1. Cover personal information collected, sold, or disclosed for
2 a business purpose, as applicable, during the twelve (12) months
3 preceding the date the business receives the request; and

4 2. Be made in writing and delivered to the consumer:

5 a. by mail or electronically, at the consumer's option,
6 if the consumer does not have an account with the
7 business, or

8 b. through the consumer's account with the business.

9 D. An electronic disclosure under subsection C of this section
10 must be in a readily accessible format that allows the consumer to
11 electronically transmit the information to another person or entity.

12 E. A business is not required to make the disclosure required
13 by subsection A of this section to the same consumer more than once
14 in a twelve-month period.

15 F. Notwithstanding subsection A of this section, if a
16 consumer's verifiable consumer request is manifestly baseless or
17 excessive, in particular because of repetitiveness, a business may
18 charge a reasonable fee after taking into account the administrative
19 costs of compliance or refusal to comply with the request. The
20 business has the burden of demonstrating that a request is
21 manifestly baseless or excessive.

22 G. A business that does not comply with a consumer's verifiable
23 consumer request under subsection A of this section shall notify the
24 consumer, within the time the business is required to respond to a

1 request under this section, of the reasons for the refusal and the
2 rights the consumer may have to appeal that decision.

3 SECTION 33. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 432 of Title 75A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A business that uses de-identified information may not re-
7 identify or attempt to re-identify a consumer who is the subject of
8 de-identified information without obtaining the consumer's consent
9 or authorization.

10 B. A business that uses de-identified information shall
11 implement:

12 1. Technical safeguards and business processes to prohibit re-
13 identification of the consumer to whom the information may pertain;
14 and

15 2. Business processes to prevent inadvertent release of de-
16 identified information.

17 C. This act may not be construed to require a business to re-
18 identify or otherwise link information that is not maintained in a
19 manner that would be considered personal information.

20 SECTION 34. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 433 of Title 75A, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A business may not discriminate against a consumer because
24 the consumer exercised a right under this act, including by:

- 1 1. Denying a good or service to the consumer;
- 2 2. Charging the consumer a different price or rate for a good
3 or service, including denying the use of a discount or other benefit
4 or imposing a penalty;
- 5 3. Providing a different level or quality of a good or service
6 to the consumer; or
- 7 4. Suggesting that the consumer will be charged a different
8 price or rate for, or provided a different level or quality of, a
9 good or service.

10 B. This section does not prohibit a business from offering or
11 charging a consumer a different price or rate for a good or service,
12 or offering or providing to the consumer a different level or
13 quality of a good or service, if the difference is reasonably
14 related to the value provided to the consumer by the consumer's
15 data.

16 SECTION 35. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 434 of Title 75A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Subject to subsection B of this section, a business may
20 offer a financial incentive to a consumer, including a payment as
21 compensation, for the collection, sale, or disclosure of the
22 consumer's personal information.

23 B. A business may enroll a consumer in a financial incentive
24 program only if the business provides to the consumer a clear

1 description of the material terms of the program and obtains the
2 consumer's prior opt-in consent, which:

- 3 1. Contains a clear description of those material terms; and
- 4 2. May be revoked by the consumer at any time.

5 C. A business may not use financial incentive practices that
6 are unjust, unreasonable, coercive, or usurious in nature.

7 SECTION 36. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 435 of Title 75A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A business may not divide a single transaction into more
11 than one transaction with the intent to avoid the requirements of
12 this act.

13 B. For purposes of this act, two or more substantially similar
14 or related transactions are considered a single transaction if the
15 transactions:

- 16 1. Are entered into contemporaneously; and
- 17 2. Have at least one common party.

18 C. A court shall disregard any intermediate transactions
19 conducted by a business with the intent to avoid the requirements of
20 this act, including the disclosure of information by a business to a
21 third party to avoid complying with the requirements under this act
22 applicable to a sale of the information.

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1 SECTION 37. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 436 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 A business shall ensure that each person responsible for
5 handling consumer inquiries about the business's privacy practices
6 or compliance with this act is informed of the requirements of this
7 act and of how to direct a consumer in exercising any of the rights
8 to which a consumer is entitled under this act.

9 SECTION 38. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 437 of Title 75A, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A person who violates this act is liable to this state for
13 injunctive relief and/or a civil penalty in an amount not to exceed:

14 1. Two Thousand Five Hundred Dollars (\$2,500.00) for each
15 violation; or

16 2. Seven Thousand Five Hundred Dollars (\$7,500.00) for each
17 violation, if the violation is intentional.

18 B. The Oklahoma Attorney General is entitled to recover
19 reasonable expenses, including reasonable attorney fees, court
20 costs, and investigatory costs, incurred in obtaining injunctive
21 relief or civil penalties, or both, under this section. Amounts
22 collected under this section shall be deposited in a dedicated
23 account in the General Revenue Fund and shall be appropriated only
24 for the purposes of the administration and enforcement of this act.

1 SECTION 39. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 438 of Title 75A, unless there
3 is created a duplication in numbering, reads as follows:

4 A business that discloses to a third party, or discloses for a
5 business purpose to a service provider, a consumer's personal
6 information in compliance with this act may not be held liable for a
7 violation of this act by the third party or service provider if the
8 business does not have actual knowledge or a reasonable belief that
9 the third party or service provider intends to violate this act.

10 SECTION 40. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 439 of Title 75A, unless there
12 is created a duplication in numbering, reads as follows:

13 A business's service provider may not be held liable for a
14 violation of this act by the business.

15 SECTION 41. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 440 of Title 75A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. This act shall be liberally construed to effect its purposes
19 and to harmonize, to the extent possible, with other laws of this
20 state relating to the privacy or protection of personal information.

21 B. To the extent of a conflict between a provision of this act
22 and a provision of federal law, including a regulation or an
23 interpretation of federal law, federal law controls and conflicting
24 requirements or other provisions of this act do not apply. Further,

1 should the federal government pass comprehensive data privacy
2 regulations that conflict with the provisions herein, federal law
3 shall prevail.

4 C. To the extent of a conflict between a provision of this act
5 and another statute of this state with respect to the privacy or
6 protection of consumers' personal information, the provision of law
7 that affords the greatest privacy or protection to consumers
8 prevails.

9 SECTION 42. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 441 of Title 75A, unless there
11 is created a duplication in numbering, reads as follows:

12 This act preempts and supersedes any ordinance, order, or rule
13 adopted by a political subdivision of this state relating to the
14 collection or sale by a business of a consumer's personal
15 information.

16 SECTION 43. The provisions of this act are severable and if any
17 part or provision shall be held void the decision of the court so
18 holding shall not affect or impair any of the remaining parts or
19 provisions of this act.

20 SECTION 44. This act shall become effective November 1, 2022.

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