

1 the Oklahoma Corporation Commission to adopt rules to
2 implement, administer and enforce this act; providing
3 guidelines for the use of personal information in
4 research; providing consumers the right to request
5 disclosure of certain information; providing
6 consumers the right to request the deletion of their
7 information; providing consumers the right to request
8 and receive a disclosure of personal information sold
9 or disclosed; providing consumers the right to opt in
10 and out of the sale of their personal information;
11 finding that individuals in Oklahoma have a right to
12 prohibit retention, use or disclosure of their own
13 personal data; finding that Oklahomans have been
14 exploited for monetary gain and manipulation by
15 private ventures in utilization of private data;
16 finding that the protection of individuals' data is a
17 core governmental function in order to protect the
18 health, safety and welfare of individuals in
19 Oklahoma; finding that this act is the least
20 restrictive alternative necessary to protect
21 individuals and their rights; finding that the use of
22 a strictly "opt-out" method for data privacy is
23 ineffectual and poses an immediate risk to health,
24 safety and welfare of Oklahomans; providing that
contracts or other agreements purporting to waive or
limit a right, remedy or means of enforcement are
contrary to public policy and are void; requiring
that businesses collecting consumer data information
must inform the consumer of each category of personal
information collected and for which purpose the
information will be used, and obtain the consumer's
explicit consent; requiring businesses that collect,
sell, or for a business purpose disclose consumers'
personal information to provide an online privacy
policy or a notice of the business's policies;
requiring businesses to designate and make available
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 reasonable 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;

1 providing that businesses may not discriminate
2 against consumers for exercising their rights;
3 providing that businesses may offer a financial
4 incentive to consumers for the collection, sale or
5 disclosure of their personal information; providing
6 that businesses may not divide a single transaction
7 into more than one transaction with the intent to
8 avoid the requirements of this act; requiring
9 businesses to ensure employees handling consumer
10 inquiries about privacy practices are informed of
11 certain rights, requirements and information;
12 providing civil penalties; authorizing the Oklahoma
13 Corporation Commission to take certain actions
14 against violating businesses; authorizing the
15 Commission to recover reasonable expenses incurred in
16 obtaining injunctive relief or civil penalties;
17 directing the Commission to deposit collected
18 penalties in a dedicated account in the General
19 Revenue Fund; providing certain immunities; providing
20 protections to service providers; providing for
21 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 to be codified
in the Oklahoma Statutes as Section 901.1 of Title 17, 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".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 901.2 of Title 17, unless there
is created a duplication in numbering, reads as follows:

As used in this act:

1 1. "Aggregate consumer information" means information that
2 relates to a group or category of consumers from which individual
3 consumer identities have been removed and that is not linked or
4 reasonably linkable to a particular consumer or household, including
5 through a device. The term does not include one or more individual
6 consumer records that have been de-identified;

7 2. "Biometric information" means an individual's physiological,
8 biological or behavioral characteristics that can be used, alone or
9 in combination with other characteristics or other identifying data,
10 to establish the individual's identity. The term includes:

- 11 a. deoxyribonucleic acid (DNA),
- 12 b. an image of an iris, retina, fingerprint, face, hand,
13 palm or vein pattern or a voice recording from which
14 an identifier template can be extracted such as a
15 faceprint, minutiae template or voiceprint,
- 16 c. keystroke patterns or rhythms,
- 17 d. gait patterns or rhythms, and
- 18 e. sleep, health or exercise data that contains
19 identifying information;

20 3. "Business" means a for-profit entity, including a sole
21 proprietorship, partnership, limited liability company, corporation,
22 association or other legal entity that is organized or operated for
23 the profit or financial benefit of the entity's shareholders or
24

1 other owners, but does not include internet service providers so
2 long as they are acting in their role as internet service providers;

3 4. "Business purpose" means the use of personal information
4 for:

5 a. the following operational purposes of a business or
6 service provider, provided that the use of the
7 information is reasonably necessary and proportionate
8 to achieve the operational purpose for which the
9 information was collected or processed or another
10 operational purpose that is compatible with the
11 context in which the information was collected:

12 (1) auditing related to a current interaction with a
13 consumer and any concurrent transactions,
14 including counting ad impressions to unique
15 visitors, verifying the positioning and quality
16 of ad impressions, and auditing compliance with a
17 specification or other standards for ad
18 impressions,

19 (2) detecting a security incident, protecting against
20 malicious, deceptive, fraudulent or illegal
21 activity, and prosecuting those responsible for
22 any illegal activity described by this division,
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- 1 (3) identifying and repairing or removing errors that
2 impair the intended functionality of computer
3 hardware or software,
- 4 (4) using personal information in the short term or
5 for a transient use, provided that the
6 information is not:
- 7 (a) disclosed to a third party, and
8 (b) used to build a profile about a consumer or
9 alter an individual consumer's experience
10 outside of a current interaction with the
11 consumer, including the contextual
12 customization of an advertisement displayed
13 as part of the same interaction,
- 14 (5) performing a service on behalf of the business or
15 service provider, including:
- 16 (a) maintaining or servicing an account,
17 providing customer service, processing or
18 fulfilling an order or transaction,
19 verifying customer information, processing a
20 payment, providing financing, providing
21 advertising or marketing services, or
22 providing analytic services, or
23 (b) performing a service similar to a service
24 described by subdivision (a) of this

1 division on behalf of the business or
2 service provider,

3 (6) undertaking internal research for technological
4 development and demonstration, or

5 (7) undertaking an activity to:

6 (a) verify or maintain the quality or safety of
7 a service or device that is owned by,
8 manufactured by, manufactured for or
9 controlled by the business, or

10 (b) improve, upgrade or enhance a service or
11 device described by subdivision (a) of this
12 division, or

13 b. another operational purpose for which notice is given
14 under this act, but specifically excepting cross-
15 context targeted advertising, unless the customer has
16 opted in to the same;

17 5. "Collect" means to buy, rent, gather, obtain, receive or
18 access the personal information of a consumer by any means,
19 including by actively or passively receiving the information from
20 the consumer or by observing the consumer's behavior;

21 6. "Commercial purpose" means a purpose that is intended to
22 result in a profit or other tangible benefit or the advancement of a
23 person's commercial or economic interests, such as by inducing
24 another person to buy, rent, lease, subscribe to, provide or

1 exchange products, goods, property, information or services or by
2 enabling or effecting, directly or indirectly, a commercial
3 transaction. The term does not include the purpose of engaging in
4 speech recognized by state or federal courts as noncommercial
5 speech, including political speech and journalism;

6 7. "Consumer" means an individual who is a resident of this
7 state;

8 8. "De-identified information" means information that cannot
9 reasonably identify, relate to, describe, be associated with, or be
10 linked to, directly or indirectly, a particular consumer;

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

13 10. "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 11. "Internet service provider" means a person who provides a
18 mass-market retail service by wire or radio that provides the
19 capability to transmit data and to receive data from all or
20 substantially all Internet endpoints, including any capabilities
21 that are incidental to and enable the operations of the service,
22 excluding dial-up Internet access service;

23 12. "Person" means an individual, sole proprietorship, firm,
24 partnership, joint venture, syndicate, business trust, company,

1 corporation, limited liability company, association, committee and
2 any other organization or group of persons acting in concert;

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

- 10 a. an identifier, including a real name, alias, mailing
11 address, account name, date of birth, driver license
12 number, unique identifier, Social Security number,
13 passport number, signature, telephone number or other
14 government-issued identification number, or other
15 similar identifier,
- 16 b. an online identifier, including an electronic mail
17 address or Internet Protocol address, or other similar
18 identifier,
- 19 c. a physical characteristic or description, including a
20 characteristic of a protected classification under
21 state or federal law,
- 22 d. commercial information, including:
 - 23 (1) a record of personal property,

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- 1 (2) a good or service purchased, obtained or
2 considered,
3 (3) an insurance policy number, or
4 (4) other purchasing or consuming histories or
5 tendencies,
6 e. biometric information,
7 f. Internet or other electronic network activity
8 information, including:
9 (1) browsing or search history, and
10 (2) other information regarding a consumer's
11 interaction with an Internet website, application
12 or advertisement,
13 g. geolocation data,
14 h. audio, electronic, visual, thermal, olfactory or other
15 similar information,
16 i. professional or employment-related information,
17 j. education information that is not publicly available
18 personally identifiable information under the Family
19 Educational Rights and Privacy Act of 1974,
20 k. financial information, including a financial
21 institution account number, credit or debit card
22 number, or password or access code associated with a
23 credit or debit card or bank account,
24 l. medical information,

- 1 m. health insurance information, or
- 2 n. inferences drawn from any of the information listed
- 3 under this paragraph to create a profile about a
- 4 consumer that reflects the consumer's preferences,
- 5 characteristics, psychological trends,
- 6 predispositions, behavior, attitudes, intelligence,
- 7 abilities or aptitudes;

8 14. "Processing information" means performing any operation or

9 set of operations on personal data or on sets of personal data,

10 whether or not by automated means;

11 15. "Publicly available information" means information that is

12 lawfully made available to the public from federal, state or local

13 government records. The term does not include:

- 14 a. biometric information of a consumer collected by a
- 15 business without the consumer's knowledge or consent,
- 16 b. data that is used for a purpose that is not compatible
- 17 with the purpose for which the data is:
- 18 (1) publicly maintained, or
- 19 (2) maintained in and made available from government
- 20 records, or
- 21 c. de-identified or aggregate consumer information;

22 16. "Service provider" means a for-profit entity as described

23 by paragraph 3 of this section that processes information on behalf

24 of a business and to which the business discloses, for a business

1 purpose, a consumer's personal information under a written contract,
2 provided that the contract prohibits the entity receiving the
3 information from retaining, using or disclosing the information for
4 any purpose other than:

- 5 a. providing the services specified in the contract with
6 the business, or
- 7 b. for a purpose permitted by this act, including for a
8 commercial purpose other than providing those
9 specified services;

10 17. "Third party" means a person who is not:

- 11 a. a business to which this act applies that collects
12 personal information from consumers, or
- 13 b. a person to whom the business discloses, for a
14 business purpose, a consumer's personal information
15 under a written contract, provided that the contract:
 - 16 (1) prohibits the person receiving the information
17 from:
 - 18 (a) selling the information,
 - 19 (b) retaining, using or disclosing the
20 information for any purpose other than
21 providing the services specified in the
22 contract, including for a commercial purpose
23 other than providing those services, and

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1 (c) retaining, using or disclosing the
2 information outside of the direct business
3 relationship between the person and the
4 business, and

5 (2) includes a certification made by the person
6 receiving the personal information that the
7 person understands and will comply with the
8 prohibitions under division (1) of this
9 subparagraph;

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

- 15 a. a device identifier,
- 16 b. an Internet Protocol address,
- 17 c. a cookie, beacon, pixel tag, mobile ad identifier or
18 similar technology,
- 19 d. a customer number, unique pseudonym or user alias,
- 20 e. a telephone number, and
- 21 f. another form of a persistent or probabilistic
22 identifier that can be used to identify a particular
23 consumer or device;

24 19. "Verifiable consumer request" means a request:

1 a. that is made by a consumer, a consumer on behalf of
2 the consumer's minor child, or a natural person or
3 person who is authorized by a consumer to act on the
4 consumer's behalf, and

5 b. that a business can reasonably verify, in accordance
6 with rules adopted under Section 9 of this act, was
7 submitted by the consumer about whom the business has
8 collected personal information; and

9 20. "Consent" means an act that clearly and conspicuously
10 communicates the individual's authorization of an act or practice
11 that is made in the absence of any mechanism in the user interface
12 that has the purpose or substantial effect of obscuring, subverting
13 or impairing decision-making or choice to obtain consent.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 901.3 of Title 17, unless there
16 is created a duplication in numbering, reads as follows:

17 A. This act applies only to:

18 1. A business that:

- 19 a. does business in this state,
20 b. collects consumers' personal information or has that
21 information collected on the business's behalf,
22 c. alone or in conjunction with others, determines the
23 purpose for and means of processing consumers'
24 personal information, and

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

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

3 exceeds Ten Million Dollars (\$10,000,000.00),

4 (2) alone or in combination with others, annually

5 buys, sells, or receives or shares for commercial

6 purposes the personal information of fifty

7 thousand or more consumers, households or

8 devices, or

9 (3) derives twenty-five percent (25%) or more of the

10 business's annual revenue from selling consumers'

11 personal information; and

12 2. An entity that controls or is controlled by a business
13 described by paragraph 1 of this subsection.

14 B. For purposes of paragraph 2 of subsection A of this section,
15 "control" means the:

16 1. Ownership of, or power to vote, more than fifty percent
17 (50%) of the outstanding shares of any class of voting security of a
18 business;

19 2. Control in any manner over the election of a majority of the
20 directors or of individuals exercising similar functions; or

21 3. Power to exercise a controlling influence over the
22 management of a company.

23 C. For purposes of this act, a business sells a consumer's
24 personal information to another business or a third party if the

1 business sells, rents, discloses, disseminates, makes available,
2 transfers or otherwise communicates, orally, in writing, or by
3 electronic or other means, the information to the other business or
4 third party for monetary or other valuable consideration.

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

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

11 2. The business:

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

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

18 (1) the business provided notice that the information
19 is being used or shared in the business's terms
20 and conditions consistent with Sections 14 and 18
21 of this act, and

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

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 Sections 11, 13 and 14 of this act.

7 E. For purposes of paragraph 1 of subsection D 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 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 901.4 of Title 17, 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. Protected health information governed by state health
20 privacy laws, or collected by a covered entity or a business
21 associate of a covered entity, as those terms are defined by 45
22 C.F.R., Section 160.103, that is governed by the privacy, security
23 and breach notification rules in 45 C.F.R., Parts 160 and 164
24 adopted by the United States Department of Health and Human Services

1 under the Health Insurance Portability and Accountability Act of
2 1996 (Pub. L. No. 104-191) and Title XIII of the American Recovery
3 and Reinvestment Act of 2009 (Pub. L. No. 111-5);

4 3. A health care provider governed by state health privacy
5 laws, or a covered entity described by paragraph 2 of this
6 subsection to the extent that the provider or entity maintains the
7 personal information of a patient in the same manner as protected
8 health information described by that paragraph;

9 4. Information collected as part of a clinical trial subject to
10 the Federal Policy for the Protection of Human Subjects in
11 accordance with the good clinical practice guidelines issued by the
12 International Council for Harmonisation or the human subject
13 protection requirements of the United States Food and Drug
14 Administration;

15 5. The sale of personal information to or by a consumer
16 reporting agency if the information is to be:

17 a. reported in or used to generate a consumer report, as
18 defined by Section 1681a(d) of the Fair Credit
19 Reporting Act (15 U.S.C., Section 1681 et seq.), and

20 b. used solely for a purpose authorized under that act;

21 6. Personal information collected, processed, sold or disclosed
22 in accordance with:

23 a. the Gramm-Leach-Bliley Act (Pub. L. No. 106-102) and
24 its implementing regulations, or

1 b. the Driver's Privacy Protection Act of 1994 (18
2 U.S.C., Section 2721 et seq.);

3 7. De-identified or aggregate consumer information; or

4 8. A consumer's personal information collected or sold by a
5 business, if every aspect of the collection or sale occurred wholly
6 outside of this state.

7 B. For purposes of paragraph 8 of subsection A of this section,
8 the collection or sale of a consumer's personal information occurs
9 wholly outside of this state if:

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

12 2. No part of the sale of the information occurs in this state;
13 and

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

16 C. For purposes of subsection B of this section, the collection
17 or sale of a consumer's personal information does not occur wholly
18 outside of this state if a business stores a consumer's personal
19 information, including on a device, when the consumer is in this
20 state and subsequently collects or sells that stored information
21 when the consumer and the information are outside of this state.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 901.5 of Title 17, unless there
24 is created a duplication in numbering, reads as follows:

1 A right or obligation under this act does not apply to the
2 extent that the exercise of the right or performance of the
3 obligation infringes on a noncommercial activity of:

4 1. A publisher, editor, reporter or other person connected with
5 or employed by a newspaper, magazine or other publication of general
6 circulation, including a periodical newsletter, pamphlet or report;

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

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

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 901.6 of Title 17, unless there
13 is created a duplication in numbering, reads as follows:

14 This act does not:

15 1. Restrict a business's ability to:

16 a. comply with:

17 (1) applicable federal, state or local laws, or

18 (2) a civil, criminal or regulatory inquiry,
19 investigation, subpoena or summons by a federal,
20 state or local authority,

21 b. cooperate with a law enforcement agency concerning

22 conduct or activity that the business, a service

23 provider of the business or a third party reasonably
24

1 and in good faith believes may violate other
2 applicable federal, state or local laws, or

3 c. pursue or defend against a legal claim; or

4 2. Require a business to violate an evidentiary privilege under
5 federal or state law or prevent a business from disclosing to a
6 person covered by an evidentiary privilege the personal information
7 of a consumer as part of a privileged communication.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 901.7 of Title 17, unless there
10 is created a duplication in numbering, reads as follows:

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

14 B. To the extent of a conflict between a provision of this act
15 and a provision of federal law, including a regulation or an
16 interpretation of federal law, federal law controls and conflicting
17 requirements or other provisions of this act do not apply.

18 C. To the extent of a conflict between a provision of this act
19 and another statute of this state with respect to the privacy or
20 protection of consumers' personal information, the provision of law
21 that affords the greatest privacy or protection to consumers
22 prevails.

23

24

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.8 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

4 This act preempts and supersedes any ordinance, order or rule
5 adopted by a political subdivision of this state relating to the
6 collection or sale by a business of a consumer's personal
7 information.

8 SECTION 9. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 901.9 of Title 17, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The Oklahoma Corporation Commission shall adopt rules
12 necessary to implement, administer and enforce this act.

13 B. The rules adopted under subsection A of this section must
14 establish:

15 1. Procedures governing the determination of, submission of,
16 and compliance with a verifiable consumer request for information
17 with the goal of minimizing administrative burdens on consumers and
18 businesses subject to this act by taking into account available
19 technology and security concerns, including:

20 a. treating as a verifiable consumer request a request
21 submitted through a password-protected online account
22 maintained by the consumer with the business while
23 logged into the account, and
24

1 b. providing a mechanism for a request submitted by a
2 consumer who does not maintain an account with the
3 business;

4 2. Procedures to facilitate and govern the submission of and
5 compliance with a request to opt out of or opt in to the sale of
6 personal information under Section 14 of this act;

7 3. Guidelines for the development of a recognizable and uniform
8 opt-in logo or button for use on businesses' Internet websites in a
9 manner that promotes consumer awareness of the opportunity to opt in
10 to the sale of personal information; and

11 4. Procedures and guidelines, including any necessary
12 exceptions, to ensure that the notices and information businesses
13 are required to provide under this act, including information
14 regarding financial incentive offerings, is:

15 a. provided in a manner that is easily understood by the
16 average consumer,

17 b. accessible by consumers with disabilities, and

18 c. available in the languages primarily used by consumers
19 to interact with businesses.

20 C. The Oklahoma Corporation Commission may adopt other rules
21 necessary to further the purposes of this act, including rules as
22 necessary to:

23 1. Update the categories of personal information listed under
24 paragraph 13 of Section 2 of this act and the definition of

1 identifier under paragraph 10 of Section 2 of this act to account
2 for privacy concerns, implementation obstacles, or changes in
3 technology and data collection methods;

4 2. Update the designated methods for submitting requests to
5 facilitate a consumer's ability to obtain information from a
6 business under Section 19 of this act; and

7 3. Establish any exceptions necessary to comply with federal
8 law or other laws of this state, including laws relating to trade
9 secrets and intellectual property rights.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 901.10 of Title 17, unless there
12 is created a duplication in numbering, reads as follows:

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

21 1. Compatible with the business purpose for which the personal
22 information was collected;

23 2. Subsequently pseudonymized and de-identified, or de-
24 identified and in the aggregate, such that the information cannot

1 reasonably identify, relate to, describe, be capable of being
2 associated with, or be linked, directly or indirectly, to a
3 particular consumer;

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

6 4. Subject to business processes that specifically prohibit re-
7 identification of the information;

8 5. Made subject to business processes to prevent inadvertent
9 release of de-identified information;

10 6. Protected from any re-identification attempts;

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

13 8. Not used for any commercial purpose; and

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

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 901.11 of Title 17, unless there
20 is created a duplication in numbering, reads as follows:

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

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 19 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 21 of this act:

8 1. Each enumerated category and item within each category of
9 personal information under paragraph 13 of Section 2 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, in the ordinary
23 course of business, is not maintained in a manner that would be
24 considered personal information.

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.12 of Title 17, 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 19 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.

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

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

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

24

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

9 SECTION 13. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 901.13 of Title 17, 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 19 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 21 of this act:

4 1. Each enumerated category of personal information under
5 paragraph 13 of Section 2 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 information under paragraph 13 of Section 2 of this act
12 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 information under paragraph
17 13 of Section 2 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 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 901.14 of Title 17, 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. Except as
11 provided by subsection C of this section, a business shall comply
12 with a direction not to sell that is received under this subsection.

13 B. A business that sells to a third party consumers' personal
14 information shall provide on the business's Internet website's home
15 page:

- 16 1. Notice to consumers that:
- 17 a. the information may be sold,
 - 18 b. identifies the persons to whom the information will or
19 could be sold,
 - 20 c. the pro rata value of the consumer's personal
21 information that is being sold, and
 - 22 d. consumers have the right to opt in to the sale; and
- 23
24

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

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

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

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 901.15 of Title 17, 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.

23

24

1 SECTION 16. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.16 of Title 17, 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 this
6 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 17. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 901.17 of Title 17, 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 prior to notifying the
18 consumer of each category of personal information to be collected
19 and the purposes for which the category of information will be used
20 and obtains the consumer's consent, which may be provided
21 electronically, to collect a consumer's personal information.

22 B. A business may not collect an additional category of
23 personal information or use personal information collected for an
24 additional purpose unless the business provides notice to the

1 consumer of the additional category or purpose in accordance with
2 subsection A of this section.

3 C. If a third party that assumes control of all or part of a
4 business as described by subparagraph c of paragraph 2 of subsection
5 D of Section 3 of this act materially alters the practices of the
6 business in how personal information is used or shared, and the
7 practices are materially inconsistent with a notice provided to a
8 consumer under subsection A or B of this section, the third party
9 must notify the consumer of the third party's new or changed
10 practices in a conspicuous manner that allows the consumer to easily
11 exercise a right provided under this act before the third party uses
12 or shares the personal information.

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

17 SECTION 18. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 901.18 of Title 17, unless there
19 is created a duplication in numbering, reads as follows:

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

24

1 1. A description of a consumer's rights under Sections 11, 13
2 and 23 of this act and designated methods for submitting a
3 verifiable consumer request for information 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 13 of Section 2 of this
9 act that, during the twelve (12) months preceding the date the
10 business updated the information as required by subsection B 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;

24

1 8. If the business sells consumers' personal information, the
2 Internet link required by subsection B of Section 14 of this act;
3 and

4 9. If applicable, the financial incentives offered to consumers
5 under Section 24 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 19. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 901.19 of Title 17, 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, if the business maintains an Internet website.

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

- 5 1. A mailing address;
- 6 2. An electronic mail address;
- 7 3. Another Internet web page or portal;
- 8 4. Another contact information; or
- 9 5. Any consumer-friendly method approved by the Oklahoma
10 Corporation Commission under Section 9 of this act.

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

13 SECTION 20. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 901.20 of Title 17, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A business that receives a consumer request under Section 11
17 or 13 of this act shall promptly take steps to reasonably verify, in
18 accordance with rules adopted under Section 9 of this act, that:

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

22 2. The request is made by:

23 a. the consumer,

24 b. a consumer on behalf of the consumer's minor child, or

1 c. a person authorized to act on the consumer's behalf.

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

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

7 SECTION 21. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 901.21 of Title 17, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Not later than forty-five (45) days after the date a
11 business receives a verifiable consumer request under Section 11 or
12 13 of this act, the business shall disclose free of charge to the
13 consumer the information required to be disclosed under those
14 sections.

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

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

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 22. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 901.22 of Title 17, 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 23. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 901.23 of Title 17, 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 24. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 901.24 of Title 17, 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 customer 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 25. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 901.25 of Title 17, 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 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.26 of Title 17, 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 27. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 901.27 of Title 17, 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 Corporation Commission is entitled to recover
19 reasonable expenses, including reasonable attorney fees, court costs
20 and investigatory costs, incurred in obtaining injunctive relief or
21 civil penalties, or both, under this section. Amounts collected
22 under this section shall be deposited in a dedicated account in the
23 General Revenue Fund and may be appropriated only for the purposes
24 of the administration and enforcement of this act.

1 C. Additionally, consumers shall have a private right of action
2 against a person who violates this act. In addition to any actual
3 damages that may have been sustained, consumers shall also be
4 entitled to injunctive relief and/or statutory damages in an amount
5 not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each
6 violation, or Seven Thousand Five Hundred Dollars (\$7,500.00) for
7 each violation, if the violation was intentional.

8 SECTION 28. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 901.28 of Title 17, unless there
10 is created a duplication in numbering, reads as follows:

11 A business that discloses to a third party, or discloses for a
12 business purpose to a service provider, a consumer's personal
13 information in compliance with this act may not be held liable for a
14 violation of this act by the third party or service provider if the
15 business does not have actual knowledge or a reasonable belief that
16 the third party or service provider intends to violate this act.

17 SECTION 29. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 901.29 of Title 17, unless there
19 is created a duplication in numbering, reads as follows:

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

22 SECTION 30. This act shall become effective November 1, 2021.

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24 COMMITTEE REPORT BY: COMMITTEE ON TECHNOLOGY, dated 02/10/2021 - DO
PASS, As Coauthored.