

1 HB216
2 207973-1
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8 SYNOPSIS: Current law provides for the confidentiality
9 of certain personal information in certain
10 contexts, and requires a business or person that
11 suffers a breach of security of data that includes
12 personal consumer information to disclose that
13 breach under certain circumstances.

14 This bill would create the Alabama Consumer
15 Privacy Act.

16 This bill would allow a consumer to request
17 that a business disclose, categorically and
18 specifically, the personal information the business
19 collects about the consumer, the categories of
20 sources from which that information is collected,
21 the business purposes for collecting or selling
22 that information, and the categories of any third
23 parties with which the information is shared.

24 This bill would require a business to make
25 certain disclosures regarding what information it
26 collects and has collected, and the purposes for
27 which that information is used.

1 This bill would allow a consumer to request
2 deletion of personal information, and would require
3 a business to delete that information upon receipt
4 of a verified request from a consumer.

5 This bill would allow a consumer to request
6 that a business that sells personal information
7 about that consumer, or discloses that information
8 for a business purpose, disclose the categories of
9 information that it collects and categories of
10 information and the identities of third parties to
11 which the information was sold or disclosed. This
12 bill would also require a business to provide this
13 information upon receipt of a verified request by a
14 consumer.

15 This bill would authorize a consumer to opt
16 out of the sale of personal information by a
17 business, and would prohibit a business from
18 discriminating against a consumer for opting out or
19 requesting information, including by charging the
20 consumer a different price or providing the
21 consumer with a different quality of goods or
22 services, unless that change in price or quality is
23 reasonably related to the value provided by that
24 consumer's personal information. The bill would
25 also allow a business to offer financial incentives
26 for collection of personal information.

1 This bill would prohibit a business from
2 selling the personal information of a consumer
3 under 18 years of age, except with affirmative
4 authorization and under certain conditions.

5 This bill would prescribe requirements for
6 the receiving, processing, and fulfilling of
7 requests from consumers relating to personal
8 information.

9 This bill would provide for enforcement by
10 the Attorney General under the Deceptive Trade
11 Practices Act, and would also provide for a private
12 cause of action in connection with certain
13 unauthorized access and exfiltration, theft, or
14 disclosure of a consumer's nonencrypted or
15 nonredacted personal information.

16 This bill would also authorize the Attorney
17 General to adopt rules for the implementation of
18 this act, including rules relating to the
19 submission and verification of consumer requests
20 relating to personal information.

21 Amendment 621 of the Constitution of Alabama
22 of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, prohibits a general
25 law whose purpose or effect would be to require a
26 new or increased expenditure of local funds from
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

7 The purpose or effect of this bill would be
8 to require a new or increased expenditure of local
9 funds within the meaning of the amendment. However,
10 the bill does not require approval of a local
11 governmental entity or enactment by a 2/3 vote to
12 become effective because it comes within one of the
13 specified exceptions contained in the amendment.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to consumer protection; to create the
20 Alabama Consumer Privacy Act; to allow a consumer to request a
21 business to disclose personal information it collects about
22 the consumer and to require a business to make those
23 disclosures under certain conditions; to allow a consumer to
24 request deletion of certain personal information; to require a
25 business to delete certain personal information under certain
26 conditions; to allow a consumer to request a business to
27 disclose the sale of certain personal information to third

1 parties; to allow a consumer to opt out of the sale of
2 personal information by a business; to prohibit a business
3 from retaliating against a consumer for making a request for
4 disclosure or for opting out; to prohibit a business from
5 selling the personal information of a consumer under 18 years
6 of age, except with authorization and under certain
7 conditions; to provide for enforcement by the Attorney
8 General; to authorize the Attorney General to adopt rules; and
9 in connection therewith would have as its purpose or effect
10 the requirement of a new or increased expenditure of local
11 funds within the meaning of Amendment 621 of the Constitution
12 of Alabama of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the "Alabama Consumer Privacy Act."

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

20 (1) AGGREGATE CONSUMER INFORMATION. Information that
21 relates to a group or category of consumers, and from which
22 individual consumer identities have been removed, which is not
23 linked or reasonably linkable to any consumer or household,
24 including via a device. The term does not include one or more
25 individual consumer records that have been deidentified.

26 (2) BIOMETRIC INFORMATION. An individual's
27 physiological, biological, or behavioral characteristics that

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

11 (3) BUSINESS. Either of the following:

12 a. A sole proprietorship, partnership, limited
13 liability company, corporation, association, or other legal
14 entity that is organized or operated for the profit or
15 financial benefit of its shareholders or other owners, that
16 collects consumers' personal information, or on the
17 behalf of which such information is collected and that alone,
18 or jointly with others, determines the purposes and
19 means of the processing of consumers' personal information,
20 and that does business in the State of Alabama.

21 b. Any entity that controls or is controlled by a
22 business as defined in paragraph a. and that shares common
23 branding with the business. For purposes of this paragraph,
24 "control" or "controlled" means ownership of, or the power to
25 vote with, more than 50 percent of the outstanding
26 shares of any class of voting security of a business; control
27 in any manner over the election of a majority of the

1 directors, or of individuals exercising similar functions; or
2 the power to exercise a controlling influence over the
3 management of a company. Also for purposes of this paragraph,
4 "common branding" means a shared name, servicemark, or
5 trademark.

6 (4) BUSINESS PURPOSE. The use of personal
7 information for the business's or a service provider's
8 operational purposes, or other notified purposes, provided
9 that the use of personal information is reasonably necessary
10 and proportionate to achieve the operational purpose for which
11 the personal information was collected or processed or for
12 another operational purpose that is compatible with the
13 context in which the personal information was collected. The
14 term includes, but is not limited to:

15 a. Auditing related to a current interaction with
16 the consumer and concurrent transactions, including, but not
17 limited to, counting ad impressions to unique visitors,
18 verifying positioning and quality of ad impressions, and
19 auditing compliance with this specification and other
20 standards.

21 b. Detecting security incidents; protecting against
22 malicious, deceptive, fraudulent, or illegal activity; and
23 prosecuting those responsible for that activity.

24 c. Debugging to identify and repair errors that
25 impair existing intended functionality.

26 d. Short-term, transient use, provided the personal
27 information that is not disclosed to another third party and

1 is not used to build a profile about a consumer or otherwise
2 alter an individual consumer's experience outside the current
3 interaction, including, but not limited to, the contextual
4 customization of ads shown as part of the same interaction.

5 e. Performing services on behalf of the business or
6 service provider, including maintaining or servicing accounts,
7 providing customer service, processing or fulfilling orders
8 and transactions, verifying customer information, processing
9 payments, providing financing, providing advertising or
10 marketing services, providing analytic services, or providing
11 similar services on behalf of the business or service
12 provider.

13 f. Undertaking internal research for technological
14 development and demonstration.

15 g. Undertaking activities to verify or maintain the
16 quality or safety of a service or device that is owned,
17 manufactured, manufactured for, or controlled by the business,
18 and to improve, upgrade, or enhance the service or device that
19 is owned, manufactured, manufactured for, or controlled by the
20 business.

21 (5) COLLECTS, COLLECTED, or COLLECTION. Buying,
22 renting, gathering, obtaining, receiving, or accessing any
23 personal information pertaining to a consumer by any means,
24 including, but not limited to, receiving information from
25 the consumer, either actively or passively, or by observing
26 the consumer's behavior.

1 (6) COMMERCIAL PURPOSES. The advancement of a
2 person's commercial or economic interests, such as by inducing
3 another person to buy, rent, lease, join, subscribe to,
4 provide, or exchange products, goods, property, information,
5 or services, or enabling or effecting, directly or indirectly,
6 a commercial transaction. The term does not include engaging
7 in speech that state or federal courts have recognized as
8 noncommercial speech, including political speech and
9 journalism.

10 (7) CONSUMER. An individual who is an Alabama
11 resident, however identified, including by any unique
12 identifier.

13 (8) DE-IDENTIFIED. Information that cannot
14 reasonably identify, relate to, describe, be capable of being
15 associated with, or be linked, directly or indirectly, to a
16 particular consumer, provided that a business using
17 de-identified information does all of the following:

18 a. Implements technical safeguards that prohibit
19 re-identification of the consumer to whom the information may
20 pertain.

21 b. Implements business processes that specifically
22 prohibit re-identification of the information.

23 c. Implements business processes to prevent
24 inadvertent release of de-identified information.

25 d. Makes no attempt to re-identify the information.

26 (9) DESIGNATED METHOD FOR SUBMITTING REQUESTS. A
27 link on a business's Internet website page that allows a

1 consumer to submit a request or direction under this act, and
2 also displays a toll-free telephone number by which a consumer
3 may submit a request or direction under this act; or any
4 new, consumer-friendly means of contacting a business, as
5 approved by the Attorney General pursuant to Section 14.

6 (10) DEVICE. Any physical object that is
7 capable of connecting to the Internet, directly or indirectly,
8 or to another device.

9 (11) HEALTH INSURANCE INFORMATION. A consumer's
10 insurance policy number or subscriber identification number,
11 any unique identifier used by a health insurer to identify
12 the consumer, or any information in the consumer's application
13 and claims history, including any appeals records, if the
14 information is linked or reasonably linkable to a consumer or
15 household, including via a device, by a business or service
16 provider.

17 (12) HOMEPAGE. The introductory page of an Internet
18 website and any Internet webpage where personal information is
19 collected. In the case of another online service, such as a
20 mobile application, homepage means the application's platform
21 page or download page; a link within the application, such as
22 from the application's configuration, "About," "Information,"
23 or "Settings" page; or any other location that
24 allows consumers to review the notice required by subsection
25 (a) of Section 10, including, but not limited to, before
26 downloading the application.

1 (13) INFER or INFERENCE. The
2 derivation of information, data, assumptions, or conclusions
3 from facts, evidence, or another source of information or
4 data.

5 (14) PERSON. An individual, proprietorship, firm,
6 partnership, joint venture, syndicate, business trust,
7 company, corporation, limited liability company, association,
8 committee, and any other organization or
9 group of persons acting in concert.

10 (15)a. PERSONAL INFORMATION. Except as provided in
11 paragraph b., information that identifies, relates to,
12 describes, is capable of being associated with, or could
13 reasonably be linked, directly or indirectly, with a
14 particular consumer or household. The term includes, but is
15 not limited to, the following:

16 1. Identifiers such as a real name, signature,
17 alias, postal address, telephone number, unique personal
18 identifier, online identifier Internet Protocol address, email
19 address, account name, social security number, insurance
20 policy number or other health insurance information, medical
21 information, physical characteristics or description, driver's
22 license or state identification card number, passport number,
23 or other similar identifiers.

24 2. Characteristics of protected classifications
25 under Alabama or federal law.

26 3. Commercial information, including
27 records of personal property, products or services purchased,

1 obtained, or considered, or other purchasing or consuming
2 histories or tendencies.

3 4. Biometric information.

4 5. Internet or other electronic network activity
5 information, including, but not limited to, browsing history,
6 search history, and information regarding a consumer's
7 interaction with an Internet website, application, or
8 advertisement.

9 6. Geolocation data.

10 7. Audio, electronic, visual, thermal, olfactory, or
11 similar information.

12 8. Professional or employment-related information.

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

17 10. Inferences drawn from any of the information
18 identified in this subdivision to create a profile about
19 a consumer reflecting the consumer's preferences,
20 characteristics, psychological trends, preferences,
21 predispositions, behavior, attitudes, intelligence, abilities,
22 or aptitudes.

23 b. For purposes of this subdivision, "personal
24 information" does not include publicly available information.
25 For purposes of this paragraph, "publicly available" means
26 information that is lawfully made available from federal,
27 state, or local government records. Also for purposes of this

1 paragraph, "publicly available" does not mean biometric
2 information collected by a business about a consumer without
3 the consumer's knowledge, or consumer information that is
4 de-identified or aggregate consumer information. Information
5 is not "publicly available" for purposes of this paragraph if
6 that data is used for a purpose that is not compatible with
7 the purpose for which the data is maintained and made
8 available in the government records or for which it is
9 publicly maintained.

10 (16) PROBABILISTIC IDENTIFIER. The
11 identification of a consumer or a device to a
12 degree of certainty of "more probable than not" based on any
13 one or more of the categories of personal information as
14 provided in this section.

15 (17) PROCESSING. Any operation or set of operations
16 that are performed on personal data or on sets of personal
17 data, whether or not by automated means.

18 (18) PSEUDONYMIZE or PSEUDONYMIZATION. The
19 processing of personal information in a manner that renders
20 the personal information no longer attributable to a
21 specific consumer without the use of additional information,
22 provided that the additional information is kept separately
23 and is subject to technical and organizational measures to
24 ensure that the personal information is not attributed to an
25 identified or identifiable consumer.

26 (19) RESEARCH. Scientific, systematic study and
27 observation, including basic research or applied research,

1 that is in the public interest and that adheres to all other
2 applicable ethics and privacy laws or studies conducted in the
3 public interest in the area of public health. For purposes of
4 this subdivision, research with personal information that may
5 have been collected from a consumer in the
6 course of the consumer's interactions with a business's
7 service or device for other purposes shall be included within
8 the meaning of "research" only if it is all of the following:

9 a. Compatible with the business purpose for which
10 the personal information was collected.

11 b. Subsequently pseudonymized and de-identified, or
12 de-identified and in the aggregate, such that the information
13 cannot reasonably identify, relate to, describe, be
14 capable of being associated with, or be linked, directly or
15 indirectly, to a particular consumer.

16 c. Made subject to technical safeguards that
17 prohibit re-identification of the consumer to whom the
18 information may pertain.

19 d. Subject to business processes that specifically
20 prohibit re-identification of the information.

21 e. Made subject to business processes to prevent
22 inadvertent release of de-identified information.

23 f. Protected from any re-identification attempts.

24 g. Used solely for research purposes that are
25 compatible with the context in which the personal information
26 was collected.

27 h. Not be used for any commercial purpose.

1 i. Subjected by the business conducting the research
2 to additional security controls that limit access to the
3 research data to only those individuals in a business as are
4 necessary to carry out the research purpose.

5 (20) SELL, SELLING, SALE, or SOLD.

6 a. Except as provided in paragraph b.: selling,
7 renting, releasing, disclosing, disseminating, making
8 available, transferring, or otherwise communicating verbally,
9 in writing, or by electronic or other means, a consumer's
10 personal information by the business to another business or to
11 a third party for monetary or other valuable consideration.

12 b. For purposes of this subdivision, the terms sell,
13 selling, sale, or sold do not include any of the following:

14 1. A consumer uses or directs the business to
15 intentionally disclose personal information or uses the
16 business to intentionally interact with a third party,
17 provided the third party does not also sell the personal
18 information, unless that disclosure would be consistent with
19 the provisions of this act. An intentional interaction occurs
20 when the consumer intends to interact with the third party via
21 one or more deliberate interactions. For purposes of this
22 subparagraph, hovering over, muting, pausing, or closing a
23 given piece of content does not constitute a consumer's intent
24 to interact with a third party.

25 2. The business uses or shares an identifier for
26 a consumer who has opted out of the sale of the consumer's
27 personal information, solely for the purpose of alerting third

1 parties that the consumer has opted out of the
2 sale of the consumer's personal information.

3 3. The business uses or shares with a service
4 provider personal information of a consumer that is necessary
5 for the service provider to perform a business purpose on
6 behalf of the business, if both of the following conditions
7 are met:

8 (i) The business has provided notice that
9 information is being used or shared in its terms and
10 conditions consistent with Section 9.

11 (ii) The service provider does not further collect,
12 sell, or use the personal information of the consumer, except
13 as necessary to perform the business purpose.

14 4. The business transfers to a third party the
15 personal information of a consumer as an asset that is
16 part of a merger, acquisition, bankruptcy, or other
17 transaction in which the third party assumes control of all or
18 part of the business, provided that the information is used or
19 shared pursuant to Sections 4 and 5. If a third party
20 materially alters how it uses or shares the personal
21 information of a consumer in a manner that is materially
22 inconsistent with the promises made at the time of collection
23 by the business, the third party shall provide prior
24 notice of the new or changed practice to the consumer. The
25 notice shall be sufficiently prominent and robust to ensure
26 that existing consumers can easily exercise their choices
27 consistently with Section 7. This subparagraph does not

1 authorize a business to make material,
2 retroactive privacy policy changes or make other changes in
3 their privacy policy in a manner that would violate the
4 Deceptive Trade Practices Act, Section 8-19-1 et seq., Code of
5 Alabama 1975.

6 (21) SERVICE or SERVICES. Work, labor, and services,
7 including services furnished in connection with the sale or
8 repair of goods.

9 (22) SERVICE PROVIDER. A sole proprietorship,
10 partnership, limited liability company, corporation,
11 association, or other legal entity that is organized or
12 operated for the profit or financial benefit of its
13 shareholders or other owners, which processes information on
14 behalf of a business and to which the business discloses
15 a consumer's personal information for a business purpose
16 pursuant to a written contract, provided that the
17 contract prohibits the entity receiving the information from
18 retaining, using, or disclosing the personal information for
19 any purpose other than for the specific purpose of performing
20 the services specified in the contract for the business, or as
21 otherwise permitted by this act, including retaining, using,
22 or disclosing the personal information for a commercial
23 purpose other than providing the services specified in the
24 contract with the business.

25 (23) THIRD PARTY.

26 a. A person who is not any of the following:

1 1. A business that collects personal information
2 from consumers pursuant to this act.

3 2. A person to whom the business discloses
4 a consumer's personal information for a business purpose
5 pursuant to a written contract, provided that the contract
6 fulfills all of the following:

7 (i) Prohibits the person receiving the personal
8 information from:

9 A. Selling the personal information.

10 B. Retaining, using, or disclosing the personal
11 information for any purpose other than for the specific
12 purpose of performing the services specified in the contract,
13 including retaining, using, or disclosing the personal
14 information for a commercial purpose other than providing the
15 services specified in the contract.

16 C. Retaining, using, or disclosing the information
17 outside of the direct business relationship between the person
18 and the business.

19 (ii) Includes a certification made by the person
20 receiving the personal information that the person understands
21 the restrictions in item (i) and will comply with them.

22 b. A person described in subparagraph a.2. that
23 violates any of the restrictions set forth in this act shall
24 be liable for the violations, as provided in Sections 12 and
25 13. A business that discloses personal information to a person
26 described in subparagraph a.2. shall not be liable under this
27 act if the person receiving the personal information uses it

1 in violation of the restrictions set forth in this act,
2 provided both of the following are satisfied:

3 1. The contract requiring the disclosure is in
4 compliance with subparagraph a.2.

5 2. At the time of disclosure, the business does not
6 have actual knowledge, or reason to believe, that the person
7 intends to commit such a violation.

8 (24) UNIQUE IDENTIFIER or UNIQUE PERSONAL
9 IDENTIFIER. A persistent identifier that can be used to
10 recognize a consumer, a family, or a device that is linked to
11 a consumer or family, over time and across different services,
12 including, but not limited to, a device identifier; an
13 Internet Protocol address; cookies, beacons, pixel tags,
14 mobile ad identifiers, or similar technology; customer number,
15 unique pseudonym, or user alias; telephone numbers; or other
16 forms of persistent or probabilistic identifiers that can be
17 used to identify a particular consumer or device. For
18 purposes of this subdivision, "family" includes a custodial
19 parent or guardian and any minor children over which the
20 parent or guardian has custody.

21 (25) VERIFIABLE CONSUMER REQUEST. A request that is
22 made by a consumer, by a consumer on behalf of the consumer's
23 minor child, or by a natural person or a person registered
24 with the Secretary of State and authorized by
25 the consumer to act on the consumer's behalf, and that the
26 business can reasonably verify, pursuant to rules adopted by
27 the Attorney General under Section 14, to be

1 the consumer about whom the business has collected personal
2 information.

3 Section 3. (a) A consumer may request that a
4 business that collects a consumer's personal information
5 disclose to that consumer the categories and specific
6 pieces of that consumer's personal information the business
7 has collected.

8 (b) A business that collects a consumer's personal
9 information, at or before the point of collection, shall
10 inform a consumer as to the categories of personal information
11 to be collected and the purposes for which the
12 categories of personal information shall be used. A business
13 shall not collect additional categories of personal
14 information or use personal information collected for
15 additional purposes without providing the consumer with notice
16 consistent with this section.

17 (c) A business shall provide the information
18 specified in subsection (a) to a consumer upon receipt of a
19 verifiable consumer request.

20 (d) A business that receives a
21 verifiable consumer request from a consumer to access personal
22 information shall promptly take steps to disclose and deliver,
23 free of charge to the consumer, the personal information
24 required to be disclosed by this section. The information may
25 be delivered by mail or electronically. If provided
26 electronically, the information shall be in a portable and, to
27 the extent technically feasible, readily usable format that

1 allows the consumer to transmit this information to another
2 entity without hindrance. A business may provide personal
3 information to a consumer at any time, but may not be required
4 to provide personal information to the same consumer more than
5 twice in a 12-month period.

6 (e) This section does not require a business to do
7 either of the following:

8 (1) Retain any personal information collected for a
9 single, one-time transaction, if the information is not sold
10 or retained by the business.

11 (2) Re-identify or otherwise link any data which, in
12 the ordinary course of business, is not maintained in a manner
13 that would be considered personal information.

14 Section 4. (a) A consumer may request that a
15 business delete any personal information about
16 the consumer which the business has collected from
17 the consumer.

18 (b) A business that collects personal information
19 about consumers shall disclose, pursuant to paragraph
20 (a) (5)a. of Section 9, the consumer's right to request the
21 deletion of the consumer's personal information.

22 (c) A business that receives a verifiable request
23 from a consumer to delete the consumer's personal information
24 pursuant to subsection (a) shall delete the consumer's
25 personal information from its records and direct any service
26 providers to delete the consumer's personal information from
27 their records.

1 (d) A business or a service provider may not be
2 required to comply with a consumer's request to delete
3 the consumer's personal information if it is necessary for the
4 business or service provider to maintain the consumer's
5 personal information in order to do any of the following:

6 (1) Complete the transaction for which the personal
7 information was collected, provide a good or service requested
8 by the consumer or reasonably anticipated within the
9 context of a business's ongoing business relationship with
10 the consumer, or otherwise perform a contract between the
11 business and the consumer.

12 (2) Detect security incidents; protect against
13 malicious, deceptive, fraudulent, or illegal activity; or
14 prosecute those responsible for that activity.

15 (3) Debug, identify, and repair errors that impair
16 existing intended functionality.

17 (4) Exercise free speech, ensure the
18 right of another consumer to exercise his or her right of free
19 speech, or exercise another right provided for by law.

20 (5) Engage in public or peer-reviewed scientific,
21 historical, or statistical research in the public interest
22 that adheres to all other applicable ethics and privacy laws,
23 when deletion of the information is likely to render
24 impossible or seriously impair the achievement of that
25 research, so long as the consumer has provided informed
26 consent.

1 (6) To enable solely internal uses that are
2 reasonably aligned with the expectations of the consumer based
3 on the consumer's relationship with the business.

4 (7) Comply with a legal obligation.

5 (8) Otherwise use the consumer's personal
6 information internally and in a lawful manner that is
7 compatible with the context in which the consumer provided the
8 information.

9 Section 5. (a) A consumer may request that a
10 business that collects personal information about
11 the consumer disclose to the consumer all the following:

12 (1) The categories of personal information it has
13 collected about that consumer.

14 (2) The categories of sources from which the
15 personal information is collected.

16 (3) The business or commercial purpose for
17 collecting or selling personal information.

18 (4) The categories of third parties with whom the
19 business shares personal information.

20 (5) The specific pieces of personal information it
21 has collected about that consumer.

22 (b) A business that collects personal information
23 about a consumer shall disclose to the consumer, pursuant
24 to subdivision (a)(3) of Section 9, the information specified
25 in subsection (a) upon receipt of a verifiable request from
26 the consumer.

1 (c) A business that collects personal information
2 about consumers shall disclose, pursuant to
3 paragraph(a) (5)b. of Section 9, all of the following:

4 (1) The categories of personal information it has
5 collected about that consumer.

6 (2) The categories of sources from which the
7 personal information is collected.

8 (3) The business or commercial purpose for
9 collecting or selling personal information.

10 (4) The categories of third parties with whom the
11 business shares personal information.

12 (5) The specific pieces of personal information the
13 business has collected about that consumer.

14 (d) This section does not require a business to do
15 either of the following:

16 (1) Retain any personal information about
17 a consumer collected for a single, one-time transaction if, in
18 the ordinary course of business, that information about
19 the consumer is not retained.

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

23 Section 6. (a) A consumer may request that a
24 business that sells the consumer's personal information, or
25 that discloses it for a business purpose, disclose to
26 the consumer all of the following:

1 (1) The categories of personal information about
2 the consumer that the business collected.

3 (2) The categories of personal information about
4 the consumer that the business sold.

5 (3) The categories of third parties to whom the
6 personal information was sold.

7 (4) The category or categories of personal
8 information sold to each category of third party.

9 (5) The categories of personal information about
10 the consumer that the business disclosed for a business
11 purpose.

12 (b) A business that sells personal information about
13 a consumer or that discloses a consumer's personal information
14 for a business purpose, upon receipt of a verifiable request
15 from the consumer, shall disclose to the consumer the
16 information specified in subsection (a), pursuant to
17 subdivision (a)(4) of Section 9.

18 (c) A business that sells consumers' personal
19 information or that discloses consumers' personal information
20 for a business purpose shall disclose all of the following
21 pursuant to paragraph (a)(5)c. of Section 9:

22 (1) The category or categories of consumers'
23 personal information the business has sold. If the business
24 has not sold consumers' personal information, it shall
25 disclose that fact.

26 (2) The category or categories of consumers'
27 personal information it has disclosed for a business purpose.

1 If the business has not disclosed consumers' personal
2 information for a business purpose, it shall disclose that
3 fact.

4 (d) A third party shall not sell personal
5 information about a consumer that has been sold to the third
6 party by a business unless the consumer has received explicit
7 notice of the sale and has been provided an opportunity to opt
8 out pursuant to Section 7.

9 Section 7. (a) A consumer, at any time, may direct a
10 business that sells personal information about the consumer to
11 third parties to not sell the consumer's personal information.
12 This may be referred to as the "right to opt out."

13 (b) A business that sells consumers' personal
14 information to third parties shall provide notice
15 to consumers, pursuant to subsection (a) of Section 10, that
16 this information may be sold and that consumers have the right
17 to opt out of the sale of their personal information.

18 (c) Pursuant to subdivision (a)(4) of Section 10, a
19 business that has received direction from a consumer to not
20 sell the consumer's personal information or, in the case of a
21 minor consumer's personal information, has not received
22 consent to sell the minor consumer's personal information, may
23 not sell the consumer's personal information after receipt by
24 the business of the consumer's direction, unless
25 the consumer subsequently provides express authorization for
26 the sale of the consumer's personal information.

1 (d) Notwithstanding subsection (a), a business may
2 not sell the personal information of consumers if the business
3 has actual knowledge that the consumer is less than 18
4 years of age unless the consumer's parent or guardian has
5 affirmatively authorized the sale of the consumer's personal
6 information. A business that willfully disregards
7 the consumer's age shall be deemed to have had actual
8 knowledge of the consumer's age. This right may be referred to
9 as the "right to opt in."

10 Section 8. (a) A business shall not discriminate
11 against a consumer because the consumer exercised
12 any of the consumer's rights under this act. For purposes of
13 this section, discrimination includes, but is not limited to,
14 any of the following:

15 (1) Denying goods or services to the consumer.

16 (2) Charging different prices or rates for goods or
17 services, including through the use of discounts or other
18 benefits or imposing penalties.

19 (3) Providing a different level or quality of goods
20 or services to a consumer.

21 (4) Suggesting that the consumer will receive a
22 different price or rate for goods or services or a different
23 level or quality of goods or services.

24 (b) (1) A business may offer financial incentives,
25 including payments to consumers, as compensation for the
26 collection of personal information, the sale of personal
27 information, or the deletion of personal information. A

1 business may also offer a different price, rate, level, or
2 quality of goods or services to the consumer if that price or
3 difference is directly related to the value provided to
4 the consumer by the consumer's data.

5 (2) A business that offers any financial incentives
6 pursuant to subdivision (1) shall notify consumers of those
7 financial incentives pursuant to Section 10.

8 (3) A business may enter a consumer into a financial
9 incentive program only if the consumer gives the business
10 prior opt-in consent pursuant to Section 10, which shall
11 clearly describe the material terms of the financial incentive
12 program, and which may be revoked by the consumer at any time.

13 (4) A business may not use financial incentive
14 practices that are unjust, unreasonable, coercive, or usurious
15 in nature.

16 Section 9. (a) In order to comply with Sections 3,
17 4, 5, 6, and 7, a business, in a form that is reasonably
18 accessible to consumers, shall do all of the following:

19 (1) Make available to consumers two or more
20 designated methods for submitting requests for information
21 required to be disclosed pursuant to Sections 5 and 6,
22 including, at a minimum, a toll-free telephone number and, if
23 the business maintains an Internet website or mobile
24 application, a Web site address or portal visible on that
25 website homepage or that application homepage.

26 (2) Disclose and deliver the required information to
27 a consumer free of charge within 45 days of receiving a

1 verifiable consumer request. The business shall promptly take
2 steps to determine whether the request is a verifiable
3 consumer request, but this shall not extend the business's
4 duty to disclose and deliver the information within 45
5 days of receipt of the consumer's request. The time period to
6 provide the required information may be extended once by an
7 additional 45 days when reasonably necessary, provided
8 the consumer is provided notice of the extension within the
9 first 45-day period. The disclosure shall cover the 12-month
10 period preceding the receipt of the verifiable request by the
11 business, and shall be made in writing and delivered through
12 the consumer's account with the business if
13 the consumer maintains an account with the business, or by
14 mail or electronically at the consumer's option if
15 the consumer does not maintain an account with the business,
16 in a readily usable format that allows the consumer to
17 transmit this information from one entity to another entity
18 without hindrance. The business may not require
19 the consumer to create an account with the business in order
20 to make a verifiable consumer request.

21 (3) For purposes of subsection (b) of Section 5,
22 both of the following:

23 a. Identify the consumer and associate the
24 information provided by the consumer in the verifiable request
25 to any personal information previously collected by the
26 business about the consumer.

1 b. Identify, by category or categories, the personal
2 information about the consumer collected in the preceding 12
3 months by reference to the enumerated category or categories
4 in subsection (c) that most closely describes the personal
5 information collected.

6 (4) For purposes of subsection (b) of Section 6,
7 both of the following:

8 a. Identify the consumer and associate the
9 information provided by the consumer in the verifiable request
10 to any personal information previously collected by the
11 business about the consumer.

12 b. Identify, by category or categories, the personal
13 information of the consumer that the business sold in the
14 preceding 12 months by reference to the enumerated category in
15 subsection (c) that most closely describes the personal
16 information, and provide the categories of third parties to
17 whom the consumer's personal information was sold in the
18 preceding 12 months by reference to the enumerated category or
19 categories in subsection (c) that most closely describes the
20 personal information sold. The business shall disclose the
21 information in a list that is separate from a list generated
22 for the purposes of paragraph c.

23 c. Identify, by category or categories, the personal
24 information of the consumer that the business disclosed for a
25 business purpose in the preceding 12 months by reference to
26 the enumerated category or categories in subsection (c) that
27 most closely describes the personal information, and provide

1 the categories of third parties to whom the consumer's
2 personal information was disclosed for a business purpose in
3 the preceding 12 months by reference to the enumerated
4 category or categories in subsection (c) that most closely
5 describes the personal information disclosed. The business
6 shall disclose the information in a list that is separate from
7 a list generated for the purposes of paragraph b.

8 (5) Disclose all of the following information in its
9 online privacy policy or policies, if any, and in any
10 Alabama-specific description of consumers' privacy rights, or,
11 if the business does not maintain those policies, the business
12 shall disclose all of the following information on its
13 Internet website and update that information at least once
14 every 12 months:

15 a. A description of a consumer's rights pursuant to
16 Sections 5, 6, and 8, and one or more designated methods for
17 submitting requests.

18 b. For purposes of subsection (c), a list of the
19 categories of personal information the business has collected
20 about consumers in the preceding 12 months by reference to the
21 enumerated category or categories in subsection (c) that most
22 closely describe the personal information collected.

23 c. For purposes of subdivisions (c)(1) and
24 (c)(2) of Section 6, two separate lists:

25 (i) A list of the categories of personal information
26 the business has sold about consumers in the preceding 12
27 months by reference to the enumerated category or categories

1 in subsection (c) of this section that most closely describe
2 the personal information sold. If the business has not
3 sold consumers' personal information in the preceding 12
4 months, the business shall disclose that fact.

5 (ii) A list of the categories of personal
6 information the business has disclosed about consumers for a
7 business purpose in the preceding 12 months by reference to
8 the enumerated category in subsection (c) that most closely
9 describes the personal information disclosed. If the business
10 has not disclosed consumers' personal information for a
11 business purpose in the preceding 12 months, the business
12 shall disclose that fact.

13 (6) Ensure that all individuals responsible for
14 handling consumer inquiries about the
15 business's privacy practices or the business's compliance with
16 this act are informed of all requirements in this section and
17 in Sections 5, 6, and 8, and how to direct consumers to take
18 actions authorized under those sections.

19 (7) Use any personal information collected from
20 the consumer in connection with the business's
21 verification of the consumer's request solely for the
22 purposes of verification.

23 (b) A business is not required to provide the
24 information required by Sections 5 and 6 to the
25 same consumer more than twice in a 12-month period.

26 (c) A business is not obligated to provide
27 information to a consumer pursuant to Sections 5 or 6 if the

1 business, pursuant to regulations adopted by the Attorney
2 General pursuant to Section 14, cannot identify that
3 the consumer making the request is the consumer about whom the
4 business has collected information or is a person authorized
5 by the consumer to act on the consumer's behalf.

6 (d) The categories of personal information required
7 to be disclosed pursuant to Sections 5 and 6 shall follow the
8 categories found within the definition of personal information
9 in Section 2.

10 Section 10. (a) A business that is required to
11 comply with Section 7, in a form that is reasonably accessible
12 to consumers, shall do all of the following:

13 (1) Provide a clear and conspicuous link on the
14 business's Internet website homepage, as well as on the
15 homepage of any mobile application controlled by the business,
16 titled "Do Not Sell My Personal Information," to an Internet
17 website page that enables a consumer or the person authorized
18 by the consumer to opt out of the sale of the consumer's
19 personal information. A business may not require a consumer to
20 create an account in order to direct the business not to sell
21 the consumer's personal information.

22 (2) Include a description of a consumer's rights
23 pursuant to Section 7, along with a separate link to the "Do
24 Not Sell My Personal Information" Internet website page in:

- 25 a. Its online privacy policy or policies, if any.
- 26 b. Any Alabama-specific
27 description of consumers' privacy rights.

1 (3) Ensure that all individuals responsible for
2 handling consumer inquiries about the
3 business's privacy practices or the business's compliance with
4 this act are informed of all requirements in Section 7 and
5 this section and how to direct consumers to exercise their
6 rights under those sections.

7 (4) For consumers who exercise their right to opt
8 out of the sale of their personal information, refrain from
9 selling personal information collected by the business about
10 the consumer.

11 (5) For a consumer who has opted out of the
12 sale of the consumer's personal information, respect
13 the consumer's decision to opt out for at least 12 months
14 before requesting that the consumer authorize the
15 sale of the consumer's personal information.

16 (6) Use any personal information collected from
17 the consumer in connection with the
18 submission of the consumer's opt-out request solely for the
19 purposes of complying with the opt-out request.

20 (b) A consumer may authorize another person solely
21 to opt out of the sale of the consumer's personal information
22 on the consumer's behalf. A business shall comply with an opt
23 out request received from a person authorized by
24 the consumer to act on the consumer's behalf, pursuant to
25 rules adopted by the Attorney General under Section 14.

1 Section 11. (a) The obligations imposed on
2 businesses by this act shall not restrict a business's ability
3 to do any of the following:

4 (1) Comply with federal, state, or local law.

5 (2) Comply with a civil, criminal, or regulatory
6 inquiry, investigation, subpoena, or summons by federal,
7 state, or local authorities.

8 (3) Cooperate with law enforcement agencies
9 concerning conduct or activity that the business, service
10 provider, or third party reasonably and in good faith believes
11 may violate federal, state, or local law.

12 (4) Exercise or defend legal claims.

13 (5) Collect, use, retain, sell, or
14 disclose consumer information that is de-identified or in the
15 aggregate consumer information.

16 (6) Collect or sell a consumer's personal
17 information if every aspect of that commercial conduct takes
18 place wholly outside of this state. For purposes of this act,
19 commercial conduct takes place wholly outside of this state if
20 the business collected that information while the consumer was
21 outside of this state, no part of the sale of the consumer's
22 personal information occurred in this state, and no personal
23 information collected while the consumer was in this state is
24 sold. This subdivision shall not permit a business to store,
25 including on a device, personal information about
26 a consumer when the consumer is in this state and then collect

1 that personal information when the consumer and stored
2 personal information is outside of this state.

3 (b) The obligations imposed on a business by this
4 act do not apply when compliance by the business with this act
5 would violate an evidentiary privilege under state law and do
6 not prevent a business from providing the personal
7 information of a consumer to a person covered by an
8 evidentiary privilege under state law as part of a privileged
9 communication.

10 (c) This act does not apply to protected or health
11 information that is collected by a covered entity governed by
12 the privacy, security, and breach notification rules issued by
13 the federal Department of Health and Human Services, 45 C.F.R.
14 Parts 160 and 164, established pursuant to the Health
15 Insurance Portability and Availability Act of 1996. For
16 purposes of this subsection, the definition of "medical
17 information" in Section 56.05 shall apply and the
18 definitions of "protected health information" and "covered
19 entity" from the federal privacy rule shall apply.

20 (d) This act does not apply to the sale of personal
21 information to or from a consumer reporting agency if that
22 information is to be reported in, or used to generate,
23 a consumer report as defined by 15 U.S.C. § 1681a(d) of the
24 United States Code, and use of that information is limited by
25 the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et
26 seq.).

1 (e) This act does not apply to personal information
2 collected, processed, sold, or disclosed pursuant to the
3 federal Gramm-Leach-Bliley Act (Public Law 106-102), and
4 regulations implemented under that act, if this act is in
5 conflict with that federal law.

6 (f) This act does not apply to personal information
7 collected, processed, sold, or disclosed pursuant to the
8 Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 et
9 seq.), if it is in conflict with that act, nor to any personal
10 information collected, processed, or disclosed by any agency
11 of this state necessary for the operation of that agency
12 relating to driver's licenses or hunting, fishing, or boating
13 licenses, nor to any agency of any other state with whom
14 Alabama has a reciprocity agreement for those licenses.

15 (g) Notwithstanding a business's obligations to
16 respond to and honor consumer rights requests pursuant to this
17 act:

18 (1) A time period for a business to respond to any
19 verified consumer request may be extended by up to 90
20 additional days where necessary due to the complexity and
21 number of requests. The business shall inform
22 the consumer of any extension within 45 days of receipt of the
23 request, along with the reasons for the delay.

24 (2) If the business does not take action on the
25 request of the consumer, the business shall inform
26 the consumer, without delay and within the time period
27 permitted for a response under this section, of the reasons

1 for not taking action and any rights the consumer may have to
2 appeal the decision to the business.

3 (3) If requests from a consumer are manifestly
4 unfounded or excessive, including, but not limited to,
5 because of their repetitive character, a business may charge a
6 fee reasonably related to the administrative
7 costs of providing the information or communication or taking
8 the action requested, or may refuse to act on the request and
9 notify the consumer of the reason for refusing the request.
10 The business shall bear the burden of demonstrating that any
11 verified consumer request is manifestly unfounded or
12 excessive.

13 (h) A business that discloses personal information
14 to a service provider is not liable under this act if the
15 service provider receiving the personal information uses it in
16 violation of the restrictions set forth in this act, provided
17 that, at the time of disclosing the personal information, the
18 business does not have actual knowledge, or reason to believe,
19 that the service provider intended to commit the violation. A
20 service provider is not liable under this act for the
21 obligations of a business for which it provides services as
22 set forth in this act.

23 (i) This act may not be construed to require a
24 business to re-identify or otherwise link information that is
25 not maintained in a manner that would be considered personal
26 information.

1 Section 12. (a) (1) Any consumer whose nonencrypted
2 or nonredacted personal information is subject to an
3 unauthorized access and exfiltration, theft, or disclosure as
4 a result of the business's failure to implement and maintain
5 reasonable personal information security procedures and
6 practices appropriate to the nature of the information may
7 institute a civil action for any or all of the following:

8 a. To recover damages in an amount as determined by
9 the court.

10 b. Injunctive or declaratory relief.

11 c. Any other relief the court deems proper.

12 (2) In assessing the amount of statutory damages,
13 the court shall consider any one or more of the relevant
14 circumstances presented by any of the parties to the case,
15 including, but not limited to, the nature and
16 seriousness of the misconduct, the number of violations, the
17 persistence of the misconduct, the length of time over which
18 the misconduct occurred, the willfulness of the defendant's
19 misconduct, and the defendant's assets, liabilities, and net
20 worth.

21 (b) Actions pursuant to this section may be brought
22 by a consumer if all of the following requirements are met:

23 (1) a. Prior to initiating any action against a
24 business for statutory damages on an individual or class-wide
25 basis, a consumer shall provide a business 30 days' written
26 notice identifying the specific provisions of this act
27 the consumer alleges have been or are being violated.

1 b. In the event a solution to that violation or
2 violations is possible, if within those 30 days the
3 business actually rectifies the violation or violations and
4 provides the consumer an express written statement that the
5 violation or violations have been cured and that no further
6 violations shall occur, no action for individual statutory
7 damages or class-wide statutory damages may be initiated
8 against the business by that consumer.

9 c. Notwithstanding paragraph a., no notice shall be
10 required prior to an individual consumer initiating an action
11 solely for actual pecuniary damages suffered as a
12 result of alleged violations of this act.

13 d. If a business continues to violate this act in
14 breach of the express written statement provided to
15 the consumer under paragraph b., the consumer may initiate
16 an action against the business to enforce the written
17 statement and may pursue statutory damages for each
18 breach of the express written statement, as well as any other
19 violation of the act that postdates the written statement.

20 (2) A consumer bringing an action as defined in
21 subdivision (c)(1) shall notify the Attorney General within 30
22 days that the action has been filed.

23 (c) Nothing in this act shall be interpreted to
24 serve as the basis for a private right of action under any
25 other law. This shall not be construed to relieve any party
26 from any duties or obligations imposed under other law or the
27 United States or Alabama Constitution.

1 Section 13. (a) Any business or third party may seek
2 the opinion of the Attorney General for guidance on how to
3 comply with the provisions of this act.

4 (b) Any violation of this act by a business, service
5 provider, or other person shall be deemed a violation of the
6 Deceptive Trade Practices Act, Section 8-19-1 et seq., Code of
7 Alabama 1975, and shall be subject to the same penalties as
8 provided in that act.

9 Section 14. (a) On or before October 1, 2022, the
10 Attorney General shall solicit broad public commentary and
11 adopt rules to further the purposes of this act, including,
12 but not limited to, the following areas:

13 (1) Updating, as needed, additional
14 categories of personal information to those enumerated in
15 subdivision (c) of Section 9 and the definition of personal
16 information in Section 2, in order to address changes in
17 technology, data collection practices, obstacles to
18 implementation, and privacy concerns.

19 (2) Updating as needed the definition of unique
20 identifiers to address changes in technology, data collection,
21 obstacles to implementation, and privacy concerns, and
22 additional categories to the definition of designated methods
23 for submitting requests to facilitate a consumer's ability to
24 obtain information from a business pursuant to Section 9.

25 (3) Establishing any exceptions necessary to comply
26 with state or federal law, including, but not limited to,

1 those relating to trade secrets and intellectual property
2 rights.

3 (4) Establishing rules and procedures for the
4 following:

5 a. To facilitate and govern the submission of a
6 request by a consumer to opt out of the sale of personal
7 information pursuant to Section 7.

8 b. To govern business compliance with a consumer's
9 opt-out request.

10 c. The development and use of a recognizable and
11 uniform opt-out logo or button by all businesses to
12 promote consumer awareness of the opportunity to opt
13 out of the sale of personal information.

14 (5) Establishing rules, procedures, and any
15 exceptions necessary to ensure that the notices and
16 information that businesses are required to provide pursuant
17 to this act are provided in a manner that may be easily
18 understood by the average consumer, are accessible
19 to consumers with disabilities, and are available in the
20 language primarily used to interact with the consumer,
21 including establishing rules and guidelines regarding
22 financial incentive offerings.

23 (6) Establishing rules and procedures to further the
24 purposes of Sections 5 and 6 and to facilitate a consumer's or
25 the consumer's authorized agent's ability to obtain
26 information pursuant to Section 9, with the goal of minimizing
27 the administrative burden on consumers, taking into account

1 available technology, security concerns, and the burden on the
2 business, to govern a business's determination that a request
3 for information received by a consumer is a verifiable
4 consumer request, including treating a request submitted
5 through a password-protected account maintained by
6 the consumer with the business while the consumer is logged
7 into the account as a verifiable consumer request and
8 providing a mechanism for a consumer who does not maintain an
9 account with the business to request information through the
10 business's authentication of the consumer's identity.

11 (b) The Attorney General may adopt additional rules
12 as necessary to further the purposes of this act.

13 Section 15. Any provision of a contract or
14 agreement of any kind that purports to waive or limit in any
15 way a consumer's rights under this act, including, but not
16 limited to, any right to a remedy or means of enforcement,
17 shall be deemed contrary to public policy and shall be void
18 and unenforceable. This section shall not prevent
19 a consumer from declining to request information from a
20 business, declining to opt out of a business's
21 sale of the consumer's personal information, or authorizing a
22 business to sell the consumer's personal information after
23 previously opting out.

24 Section 16. This act shall be liberally construed to
25 effectuate its purposes.

26 Section 17. This act is intended to supplement
27 federal and state law, if permissible, but shall not apply if

1 such application is preempted by, or in conflict with, federal
2 law or the Constitution of Alabama of 1901.

3 Section 18. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 19. Section 14 of this act shall become
12 effective immediately following its passage and approval by
13 the Governor, or its otherwise becoming law; the remainder of
14 this act shall become effective October 1, 2022, following its
15 passage and approval by the Governor, or its otherwise
16 becoming law.