

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1602

By: Walke and West (Josh)

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7 AS INTRODUCED

8 An Act relating to privacy of computer data; enacting
9 the Oklahoma Computer Data Privacy Act; defining
10 terms; providing that this act applies to certain
11 businesses that collect consumers' personal
12 information; providing exemptions; prescribing
13 compliance with other laws and legal proceedings;
14 requiring this act to be liberally construed to align
15 its effects with other laws relating to privacy and
16 protection of personal information; providing that
17 when in conflict federal law controls; providing that
18 when in conflict with state law the law providing the
19 greatest privacy or protection to consumers controls;
20 providing for preemption of local law; providing for
21 the Oklahoma Corporation Commission to adopt rules to
22 implement, administer and enforce this act; providing
23 guidelines for the use of personal information in
24 research; providing consumers the right to request
disclosure of certain information; providing
consumers the right to request the deletion of their
information; providing consumers the right to request
and receive a disclosure of personal information sold
or disclosed; providing consumers the right to opt in
and out of the sale of their personal information;
finding that individuals in Oklahoma have a right to
prohibit retention, use or disclosure of their own
personal data; finding that Oklahomans have been
exploited for monetary gain and manipulation by
private ventures in utilization of private data;
finding that the protection of individuals' data is a
core governmental function in order to protect the
health, safety and welfare of individuals in
Oklahoma; finding that this act is the least
restrictive alternative necessary to protect

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

1 protections to service providers; providing for
2 codification; and providing an effective date.

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

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 901.1 of Title 17, unless there
8 is created a duplication in numbering, reads as follows:

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

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

14 As used in this act:

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

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

- 1 a. deoxyribonucleic acid (DNA),
- 2 b. an image of an iris, retina, fingerprint, face, hand,
- 3 palm or vein pattern or a voice recording from which
- 4 an identifier template can be extracted such as a
- 5 faceprint, minutiae template or voiceprint,
- 6 c. keystroke patterns or rhythms,
- 7 d. gait patterns or rhythms, and
- 8 e. sleep, health or exercise data that contains
- 9 identifying information;

10 3. "Business" means a for-profit entity, including a sole
11 proprietorship, partnership, limited liability company, corporation,
12 association or other legal entity that is organized or operated for
13 the profit or financial benefit of the entity's shareholders or
14 other owners, but does not include internet service providers so
15 long as they are acting in their role as internet service providers;

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

- 18 a. the following operational purposes of a business or
19 service provider, provided that the use of the
20 information is reasonably necessary and proportionate
21 to achieve the operational purpose for which the
22 information was collected or processed or another
23 operational purpose that is compatible with the
24 context in which the information was collected:

- 1 (1) auditing related to a current interaction with a
2 consumer and any concurrent transactions,
3 including counting ad impressions to unique
4 visitors, verifying the positioning and quality
5 of ad impressions, and auditing compliance with a
6 specification or other standards for ad
7 impressions,
- 8 (2) detecting a security incident, protecting against
9 malicious, deceptive, fraudulent or illegal
10 activity, and prosecuting those responsible for
11 any illegal activity described by this division,
- 12 (3) identifying and repairing or removing errors that
13 impair the intended functionality of computer
14 hardware or software,
- 15 (4) using personal information in the short term or
16 for a transient use, provided that the
17 information is not:
 - 18 (a) disclosed to a third party, and
 - 19 (b) used to build a profile about a consumer or
20 alter an individual consumer's experience
21 outside of a current interaction with the
22 consumer, including the contextual
23 customization of an advertisement displayed
24 as part of the same interaction,

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

3 (a) maintaining or servicing an account,
4 providing customer service, processing or
5 fulfilling an order or transaction,
6 verifying customer information, processing a
7 payment, providing financing, providing
8 advertising or marketing services, or
9 providing analytic services, or

10 (b) performing a service similar to a service
11 described by subdivision (a) of this
12 division on behalf of the business or
13 service provider,

14 (6) undertaking internal research for technological
15 development and demonstration, or

16 (7) undertaking an activity to:

17 (a) verify or maintain the quality or safety of
18 a service or device that is owned by,
19 manufactured by, manufactured for or
20 controlled by the business, or

21 (b) improve, upgrade or enhance a service or
22 device described by subdivision (a) of this
23 division, or
24

1 b. another operational purpose for which notice is given
2 under this act, but specifically excepting cross-
3 context targeted advertising, unless the customer has
4 opted in to the same;

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

9 6. "Commercial purpose" means a purpose that is intended to
10 result in a profit or other tangible benefit or the advancement of a
11 person's commercial or economic interests, such as by inducing
12 another person to buy, rent, lease, subscribe to, provide or
13 exchange products, goods, property, information or services or by
14 enabling or effecting, directly or indirectly, a commercial
15 transaction. The term does not include the purpose of engaging in
16 speech recognized by state or federal courts as noncommercial
17 speech, including political speech and journalism;

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

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

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

1 10. "Identifier" means data elements or other information that
2 alone or in conjunction with other information can be used to
3 identify a particular consumer, household or device that is linked
4 to a particular consumer or household;

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

11 12. "Person" means an individual, sole proprietorship, firm,
12 partnership, joint venture, syndicate, business trust, company,
13 corporation, limited liability company, association, committee and
14 any other organization or group of persons acting in concert;

15 13. "Personal information" means information that identifies,
16 relates to, describes, can be associated with or can reasonably be
17 linked to, directly or indirectly, a particular consumer or
18 household. The term includes the following categories of
19 information if the information identifies, relates to, describes,
20 can be associated with or can reasonably be linked to, directly or
21 indirectly, a particular consumer or household:

22 a. an identifier, including a real name, alias, mailing
23 address, account name, date of birth, driver license
24 number, unique identifier, Social Security number,

1 passport number, signature, telephone number or other
2 government-issued identification number, or other
3 similar identifier,

4 b. an online identifier, including an electronic mail
5 address or Internet Protocol address, or other similar
6 identifier,

7 c. a physical characteristic or description, including a
8 characteristic of a protected classification under
9 state or federal law,

10 d. commercial information, including:

11 (1) a record of personal property,

12 (2) a good or service purchased, obtained or
13 considered,

14 (3) an insurance policy number, or

15 (4) other purchasing or consuming histories or
16 tendencies,

17 e. biometric information,

18 f. Internet or other electronic network activity
19 information, including:

20 (1) browsing or search history, and

21 (2) other information regarding a consumer's
22 interaction with an Internet website, application
23 or advertisement,

24 g. geolocation data,

- 1 h. audio, electronic, visual, thermal, olfactory or other
- 2 similar information,
- 3 i. professional or employment-related information,
- 4 j. education information that is not publicly available
- 5 personally identifiable information under the Family
- 6 Educational Rights and Privacy Act of 1974,
- 7 k. financial information, including a financial
- 8 institution account number, credit or debit card
- 9 number, or password or access code associated with a
- 10 credit or debit card or bank account,
- 11 l. medical information,
- 12 m. health insurance information, or
- 13 n. inferences drawn from any of the information listed
- 14 under this paragraph to create a profile about a
- 15 consumer that reflects the consumer's preferences,
- 16 characteristics, psychological trends,
- 17 predispositions, behavior, attitudes, intelligence,
- 18 abilities or aptitudes;

19 14. "Processing information" means performing any operation or
20 set of operations on personal data or on sets of personal data,
21 whether or not by automated means;

22 15. "Publicly available information" means information that is
23 lawfully made available to the public from federal, state or local
24 government records. The term does not include:

- 1 a. biometric information of a consumer collected by a
- 2 business without the consumer's knowledge or consent,
- 3 b. data that is used for a purpose that is not compatible
- 4 with the purpose for which the data is:
- 5 (1) publicly maintained, or
- 6 (2) maintained in and made available from government
- 7 records, or
- 8 c. de-identified or aggregate consumer information;

9 16. "Service provider" means a for-profit entity as described
10 by paragraph 3 of this section that processes information on behalf
11 of a business and to which the business discloses, for a business
12 purpose, a consumer's personal information under a written contract,
13 provided that the contract prohibits the entity receiving the
14 information from retaining, using or disclosing the information for
15 any purpose other than:

- 16 a. providing the services specified in the contract with
- 17 the business, or
- 18 b. for a purpose permitted by this act, including for a
- 19 commercial purpose other than providing those
- 20 specified services;

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

- 22 a. a business to which this act applies that collects
- 23 personal information from consumers, or

1 b. a person to whom the business discloses, for a
2 business purpose, a consumer's personal information
3 under a written contract, provided that the contract:

4 (1) prohibits the person receiving the information
5 from:

6 (a) selling the information,

7 (b) retaining, using or disclosing the
8 information for any purpose other than
9 providing the services specified in the
10 contract, including for a commercial purpose
11 other than providing those services, and

12 (c) retaining, using or disclosing the
13 information outside of the direct business
14 relationship between the person and the
15 business, and

16 (2) includes a certification made by the person
17 receiving the personal information that the
18 person understands and will comply with the
19 prohibitions under division (1) of this
20 subparagraph;

21 18. "Unique identifier" means a persistent identifier that can
22 be used over time and across different services to recognize a
23 consumer, a custodial parent or guardian, or any minor children over
24

1 which the parent or guardian has custody, or a device that is linked
2 to those individuals. The term includes:

- 3 a. a device identifier,
- 4 b. an Internet Protocol address,
- 5 c. a cookie, beacon, pixel tag, mobile ad identifier or
6 similar technology,
- 7 d. a customer number, unique pseudonym or user alias,
- 8 e. a telephone number, and
- 9 f. another form of a persistent or probabilistic
10 identifier that can be used to identify a particular
11 consumer or device;

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

- 13 a. that is made by a consumer, a consumer on behalf of
14 the consumer's minor child, or a natural person or
15 person who is authorized by a consumer to act on the
16 consumer's behalf, and
- 17 b. that a business can reasonably verify, in accordance
18 with rules adopted under Section 9 of this act, was
19 submitted by the consumer about whom the business has
20 collected personal information; and

21 20. "Consent" means an act that clearly and conspicuously
22 communicates the individual's authorization of an act or practice
23 that is made in the absence of any mechanism in the user interface
24

1 that has the purpose or substantial effect of obscuring, subverting
2 or impairing decision-making or choice to obtain consent.

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

6 A. This act applies only to:

7 1. A business that:

8 a. does business in this state,

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

11 c. alone or in conjunction with others, determines the
12 purpose for and means of processing consumers'
13 personal information, and

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

15 (1) has annual gross revenue in an amount that
16 exceeds Ten Million Dollars (\$10,000,000.00),

17 (2) alone or in combination with others, annually
18 buys, sells, or receives or shares for commercial
19 purposes the personal information of fifty
20 thousand or more consumers, households or
21 devices, or

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

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

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

5 1. Ownership of, or power to vote, more than fifty percent
6 (50%) of the outstanding shares of any class of voting security of a
7 business;

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

10 3. Power to exercise a controlling influence over the
11 management of a company.

12 C. For purposes of this act, a business sells a consumer's
13 personal information to another business or a third party if the
14 business sells, rents, discloses, disseminates, makes available,
15 transfers or otherwise communicates, orally, in writing, or by
16 electronic or other means, the information to the other business or
17 third party for monetary or other valuable consideration.

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

20 1. The consumer directs the business to intentionally disclose
21 the information or uses the business to intentionally interact with
22 a third party, provided that the third party does not sell the
23 information, unless that disclosure is consistent with this act; or

24 2. The business:

1 a. uses or shares an identifier of the consumer to alert
2 a third party that the consumer has opted out of the
3 sale of the information,

4 b. uses or shares with a service provider a consumer's
5 personal information that is necessary to perform a
6 business purpose if:

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

11 (2) the service provider does not further collect,
12 sell or use the information except as necessary
13 to perform the business purpose, or

14 c. transfers to a third party a consumer's personal
15 information as an asset that is part of a merger,
16 acquisition, bankruptcy or other transaction in which
17 the third party assumes control of all or part of the
18 business, provided that information is used or shared
19 consistent with Sections 11, 13 and 14 of this act.

20 E. For purposes of paragraph 1 of subsection D of this section,
21 an intentional interaction occurs if the consumer does one or more
22 deliberate acts with the intent to interact with a third party.
23 Placing a cursor over, muting, pausing or closing online content
24 does not constitute a consumer's intent to interact with a third

1 party. Instead, said deliberate act must be consent to such
2 interaction as defined herein.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 901.4 of Title 17, unless there
5 is created a duplication in numbering, reads as follows:

6 A. This act does not apply to:

7 1. Publicly available information;

8 2. Protected health information governed by state health
9 privacy laws, or collected by a covered entity or a business
10 associate of a covered entity, as those terms are defined by 45
11 C.F.R., Section 160.103, that is governed by the privacy, security
12 and breach notification rules in 45 C.F.R., Parts 160 and 164
13 adopted by the United States Department of Health and Human Services
14 under the Health Insurance Portability and Accountability Act of
15 1996 (Pub. L. No. 104-191) and Title XIII of the American Recovery
16 and Reinvestment Act of 2009 (Pub. L. No. 111-5);

17 3. A health care provider governed by state health privacy
18 laws, or a covered entity described by paragraph 2 of this
19 subsection to the extent that the provider or entity maintains the
20 personal information of a patient in the same manner as protected
21 health information described by that paragraph;

22 4. Information collected as part of a clinical trial subject to
23 the Federal Policy for the Protection of Human Subjects in
24 accordance with the good clinical practice guidelines issued by the

1 International Council for Harmonisation or the human subject
2 protection requirements of the United States Food and Drug
3 Administration;

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

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

10 6. Personal information collected, processed, sold or disclosed
11 in accordance with:

- 12 a. the Gramm-Leach-Bliley Act (Pub. L. No. 106-102) and
13 its implementing regulations, or
- 14 b. the Driver's Privacy Protection Act of 1994 (18
15 U.S.C., Section 2721 et seq.);

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

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

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

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

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

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

5 C. For purposes of subsection B of this section, the collection
6 or sale of a consumer's personal information does not occur wholly
7 outside of this state if a business stores a consumer's personal
8 information, including on a device, when the consumer is in this
9 state and subsequently collects or sells that stored information
10 when the consumer and the information are outside of this state.

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

14 A right or obligation under this act does not apply to the
15 extent that the exercise of the right or performance of the
16 obligation infringes on a noncommercial activity of:

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

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

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

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

4 This act does not:

5 1. Restrict a business's ability to:

6 a. comply with:

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

8 (2) a civil, criminal or regulatory inquiry,

9 investigation, subpoena or summons by a federal,

10 state or local authority,

11 b. cooperate with a law enforcement agency concerning

12 conduct or activity that the business, a service

13 provider of the business or a third party reasonably

14 and in good faith believes may violate other

15 applicable federal, state or local laws, or

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

17 2. Require a business to violate an evidentiary privilege under
18 federal or state law or prevent a business from disclosing to a
19 person covered by an evidentiary privilege the personal information
20 of a consumer as part of a privileged communication.

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

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

4 B. To the extent of a conflict between a provision of this act
5 and a provision of federal law, including a regulation or an
6 interpretation of federal law, federal law controls and conflicting
7 requirements or other provisions of this act do not apply.

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

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

16 This act preempts and supersedes any ordinance, order or rule
17 adopted by a political subdivision of this state relating to the
18 collection or sale by a business of a consumer's personal
19 information.

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

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

1 B. The rules adopted under subsection A of this section must
2 establish:

3 1. Procedures governing the determination of, submission of,
4 and compliance with a verifiable consumer request for information
5 with the goal of minimizing administrative burdens on consumers and
6 businesses subject to this act by taking into account available
7 technology and security concerns, including:

8 a. treating as a verifiable consumer request a request
9 submitted through a password-protected online account
10 maintained by the consumer with the business while
11 logged into the account, and

12 b. providing a mechanism for a request submitted by a
13 consumer who does not maintain an account with the
14 business;

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

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

22 4. Procedures and guidelines, including any necessary
23 exceptions, to ensure that the notices and information businesses
24

1 are required to provide under this act, including information
2 regarding financial incentive offerings, is:

- 3 a. provided in a manner that is easily understood by the
4 average consumer,
- 5 b. accessible by consumers with disabilities, and
- 6 c. available in the languages primarily used by consumers
7 to interact with businesses.

8 C. The Oklahoma Corporation Commission may adopt other rules
9 necessary to further the purposes of this act, including rules as
10 necessary to:

11 1. Update the categories of personal information listed under
12 paragraph 13 of Section 2 of this act and the definition of
13 identifier under paragraph 10 of Section 2 of this act to account
14 for privacy concerns, implementation obstacles, or changes in
15 technology and data collection methods;

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

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

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

1 For purposes of this act, "research" means scientific,
2 systematic study and observation, including basic research or
3 applied research that is in the public interest and that adheres to
4 all other applicable ethics and privacy laws or studies conducted in
5 the public interest in the area of public health. Research with
6 personal information that may have been collected from a consumer in
7 the course of the consumer's interactions with a business's service
8 or device for other purposes must be:

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

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

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

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

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

22 6. Protected from any re-identification attempts;

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

1 8. Not used for any commercial purpose; and

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

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

9 A. A consumer is entitled to request that a business that
10 collects the consumer's personal information disclose to the
11 consumer the categories and specific items of personal information
12 the business has collected.

13 B. To receive the disclosure of information under subsection A
14 of this section, a consumer must submit to the business a verifiable
15 consumer request using a method designated by the business under
16 Section 19 of this act.

17 C. On receipt of a verifiable consumer request under this
18 section, a business shall disclose to the consumer in the time and
19 manner provided by Section 21 of this act:

20 1. Each enumerated category and item within each category of
21 personal information under paragraph 13 of Section 2 of this act
22 that the business collected about the consumer during the twelve
23 (12) months preceding the date of the request;

24

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

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

5 4. Each category of third parties with whom the business shares
6 the personal information.

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

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

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

14 SECTION 12. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 901.12 of Title 17, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A consumer is entitled to request that a business that
18 collects the consumer's personal information delete any personal
19 information the business has collected from the consumer by
20 submitting a verifiable consumer request using a method designated
21 by the business under Section 19 of this act.

22 B. Except as provided by subsection C of this section, on
23 receipt of a verifiable consumer request under this section a
24 business shall delete from the business's records any personal

1 information collected from the consumer and direct a service
2 provider of the business to delete the information from the
3 provider's records.

4 C. A business or service provider of the business is not
5 required to comply with a verifiable consumer request received under
6 this section if the business or service provider needs to retain the
7 consumer's personal information to:

8 1. Complete the transaction for which the information was
9 collected;

10 2. Provide a good or service requested by the consumer in the
11 context of the ongoing business relationship between the business
12 and consumer;

13 3. Perform under a contract between the business and the
14 consumer;

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

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

20 6. Exercise free speech or ensure the right of another consumer
21 to exercise the right of free speech or another right afforded by
22 law;

23 7. Comply with a court order or subpoena or other lawful
24 process; or

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

4 a. the business's deletion of the information is likely
5 to render impossible or seriously impair the
6 achievement of that research, and

7 b. the consumer has previously provided to the business
8 informed consent to retain the information for such
9 use.

10 D. Where a business, service provider or third party has made a
11 consumer's personal information public, said business, service
12 provider or third party shall:

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

17 2. Also advise any other business, service provider or third
18 party with whom a contract regarding the consumer exists that the
19 consumer has requested the erasure of any links to, copies of or
20 replication of that personal information.

21 SECTION 13. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 901.13 of Title 17, unless there
23 is created a duplication in numbering, reads as follows:

1 A. A consumer is entitled to request that a business that
2 sells, or discloses for a business purpose, the consumer's personal
3 information disclose to the consumer:

4 1. The categories of personal information the business
5 collected about the consumer;

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

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

10 B. To receive the disclosure of information under subsection A
11 of this section, a consumer must submit to the business a verifiable
12 consumer request using a method designated by the business under
13 Section 19 of this act.

14 C. On receipt of a verifiable consumer request under this
15 section, a business shall disclose to the consumer in the time and
16 manner provided by Section 21 of this act:

17 1. Each enumerated category of personal information under
18 paragraph 13 of Section 2 of this act that the business collected
19 about the consumer during the twelve (12) months preceding the date
20 of the request;

21 2. The categories of third parties to whom the business sold
22 the consumer's personal information during the twelve (12) months
23 preceding the date of the request, by reference to each enumerated
24

1 category of information under paragraph 13 of Section 2 of this act
2 sold to each third party; and

3 3. The categories of third parties to whom the business
4 disclosed for a business purpose the consumer's personal information
5 during the twelve (12) months preceding the date of the request, by
6 reference to each enumerated category of information under paragraph
7 13 of Section 2 of this act disclosed to each third party.

8 D. A business shall provide the information described by
9 paragraphs 2 and 3 of subsection C of this section in two separate
10 lists.

11 E. A business that did not sell, or disclose for a business
12 purpose, the consumer's personal information during the twelve (12)
13 months preceding the date of receiving the consumer's verifiable
14 consumer request under this section shall disclose that fact to the
15 consumer.

16 SECTION 14. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 901.14 of Title 17, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A consumer is entitled at any time to opt out of the sale of
20 the consumer's personal information by a business to third parties
21 by directing the business not to sell the information. A consumer
22 may authorize another person solely to opt out of the sale of the
23 consumer's personal information on the consumer's behalf. Except as
24

1 provided by subsection C of this section, a business shall comply
2 with a direction not to sell that is received under this subsection.

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

6 1. Notice to consumers that:

7 a. the information may be sold,

8 b. identifies the persons to whom the information will or
9 could be sold,

10 c. the pro rata value of the consumer's personal
11 information that is being sold, and

12 d. consumers have the right to opt in to the sale; and

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

16 C. A business may not sell to a third party the personal
17 information of a consumer who does not opt in to the sale of that
18 information after the effective date of this act or after a consumer
19 submits a verifiable request to opt out of any future sale.

20 D. A business may use any personal information collected from
21 the consumer in connection with the consumer's opting out under this
22 section solely to comply with this section.

23 E. A third party to whom a business has sold the personal
24 information of a consumer may not sell the information unless the

1 consumer receives explicit notice of the potential sale and is
2 provided the opportunity to, and in fact does, exercise the right to
3 opt in to the sale as provided by this section.

4 F. A business may not require a consumer to create an account
5 with the business to opt in to the sale of the consumer's personal
6 information.

7 G. A business or service provider shall implement and maintain
8 reasonable security procedures and practices, including
9 administrative, physical and technical safeguards appropriate to the
10 nature of the information and the purposes for which the personal
11 information will be used, to protect consumers' personal information
12 from unauthorized use, disclosure, access, destruction or
13 modification, irrespective of whether a customer has opted in or out
14 of a sale of data.

15 SECTION 15. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 901.15 of Title 17, unless there
17 is created a duplication in numbering, reads as follows:

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

21 B. The Legislature of the State of Oklahoma further finds that
22 individuals within Oklahoma have previously been exploited for
23 monetary gain and manipulation by private ventures in utilization of
24 private data.

1 C. The Legislature of the State of Oklahoma further finds that
2 the protection of individuals within Oklahoma and their data is a
3 core governmental function in order to protect the health, safety
4 and welfare of individuals within Oklahoma.

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

11 SECTION 16. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 901.16 of Title 17, unless there
13 is created a duplication in numbering, reads as follows:

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

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

- 18 1. Declining to request information from a business;
- 19 2. Declining to opt in to a business's sale of the consumer's
20 personal information; or
- 21 3. Authorizing a business to sell the consumer's personal
22 information after previously opting out.

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1 SECTION 17. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.17 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

4 A. After the effective date of this act, a business shall not
5 collect a consumer's personal information prior to notifying the
6 consumer of each category of personal information to be collected
7 and the purposes for which the category of information will be used
8 and obtains the consumer's consent, which may be provided
9 electronically, to collect a consumer's personal information.

10 B. A business may not collect an additional category of
11 personal information or use personal information collected for an
12 additional purpose unless the business provides notice to the
13 consumer of the additional category or purpose in accordance with
14 subsection A of this section.

15 C. If a third party that assumes control of all or part of a
16 business as described by subparagraph c of paragraph 2 of subsection
17 D of Section 3 of this act materially alters the practices of the
18 business in how personal information is used or shared, and the
19 practices are materially inconsistent with a notice provided to a
20 consumer under subsection A or B of this section, the third party
21 must notify the consumer of the third party's new or changed
22 practices in a conspicuous manner that allows the consumer to easily
23 exercise a right provided under this act before the third party uses
24 or shares the personal information.

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

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

8 A. A business that collects, sells or for a business purpose
9 discloses a consumer's personal information shall disclose the
10 following information in the business's online privacy policy or
11 other notice of the business's policies:

12 1. A description of a consumer's rights under Sections 11, 13
13 and 23 of this act and designated methods for submitting a
14 verifiable consumer request for information under this act;

15 2. For a business that collects personal information about
16 consumers, a description of the consumer's right to request the
17 deletion of the consumer's personal information;

18 3. Separate lists containing the categories of consumers'
19 personal information described by paragraph 13 of Section 2 of this
20 act that, during the twelve (12) months preceding the date the
21 business updated the information as required by subsection B of this
22 section, the business:

- 23 a. collected,
- 24 b. sold, if applicable, or

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

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

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

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

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

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

14 9. If applicable, the financial incentives offered to consumers
15 under Section 24 of this act.

16 B. If a business described by subsection A of this section does
17 not have an online privacy policy or other notice of the business's
18 policies, the business shall make the information required under
19 subsection A of this section available to consumers on the
20 business's Internet website or another website the business
21 maintains that is dedicated to consumers in this state.

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

24

1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901.19 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

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

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

11 2. The business's Internet website at which the consumer may
12 submit the request, if the business maintains an Internet website.

13 B. The methods designated under subsection A of this section
14 may also include:

15 1. A mailing address;

16 2. An electronic mail address;

17 3. Another Internet web page or portal;

18 4. Another contact information; or

19 5. Any consumer-friendly method approved by the Oklahoma
20 Corporation Commission under Section 9 of this act.

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

23

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

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

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

10 2. The request is made by:

11 a. the consumer,

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

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

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

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

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

22 A. Not later than forty-five (45) days after the date a
23 business receives a verifiable consumer request under Section 11 or
24 13 of this act, the business shall disclose free of charge to the

1 consumer the information required to be disclosed under those
2 sections.

3 B. A business may extend the time in which to comply with
4 subsection A of this section once by an additional forty-five (45)
5 days if reasonably necessary or by an additional ninety (90) days
6 after taking into account the number and complexity of verifiable
7 consumer requests received by the business. A business that extends
8 the time in which to comply with subsection A of this section shall
9 notify the consumer of the extension and reason for the delay within
10 the period prescribed by that subsection.

11 C. The disclosure required by subsection A of this section
12 must:

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

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

17 a. by mail or electronically, at the consumer's option,
18 if the consumer does not have an account with the
19 business, or

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

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

24

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

4 F. Notwithstanding subsection A of this section, if a
5 consumer's verifiable consumer request is manifestly baseless or
6 excessive, in particular because of repetitiveness, a business may
7 charge a reasonable fee after taking into account the administrative
8 costs of compliance or refusal to comply with the request. The
9 business has the burden of demonstrating that a request is
10 manifestly baseless or excessive.

11 G. A business that does not comply with a consumer's verifiable
12 consumer request under subsection A of this section shall notify the
13 consumer, within the time the business is required to respond to a
14 request under this section, of the reasons for the refusal and the
15 rights the consumer may have to appeal that decision.

16 SECTION 22. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 901.22 of Title 17, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A business that uses de-identified information may not re-
20 identify or attempt to re-identify a consumer who is the subject of
21 de-identified information without obtaining the consumer's consent
22 or authorization.

23 B. A business that uses de-identified information shall
24 implement:

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

4 2. Business processes to prevent inadvertent release of de-
5 identified information.

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

9 SECTION 23. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 901.23 of Title 17, unless there
11 is created a duplication in numbering, reads as follows:

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

14 1. Denying a good or service to the consumer;

15 2. Charging the consumer a different price or rate for a good
16 or service, including denying the use of a discount or other benefit
17 or imposing a penalty;

18 3. Providing a different level or quality of a good or service
19 to the consumer; or

20 4. Suggesting that the consumer will be charged a different
21 price or rate for, or provided a different level or quality of, a
22 good or service.

23 B. This section does not prohibit a business from offering or
24 charging a consumer a different price or rate for a good or service,

1 or offering or providing to the consumer a different level or
2 quality of a good or service, if the difference is reasonably
3 related to the value provided to the consumer by the consumer's
4 data.

5 SECTION 24. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 901.24 of Title 17, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Subject to subsection B of this section, a business may
9 offer a financial incentive to a consumer, including a payment as
10 compensation, for the collection, sale or disclosure of the
11 consumer's personal information.

12 B. A business may enroll a customer in a financial incentive
13 program only if the business provides to the consumer a clear
14 description of the material terms of the program and obtains the
15 consumer's prior opt-in consent, which:

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

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

20 SECTION 25. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 901.25 of Title 17, unless there
22 is created a duplication in numbering, reads as follows:

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1 A. A business may not divide a single transaction into more
2 than one transaction with the intent to avoid the requirements of
3 this act.

4 B. For purposes of this act, two or more substantially similar
5 or related transactions are considered a single transaction if the
6 transactions:

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

9 C. A court shall disregard any intermediate transactions
10 conducted by a business with the intent to avoid the requirements of
11 this act, including the disclosure of information by a business to a
12 third party to avoid complying with the requirements under this act
13 applicable to a sale of the information.

14 SECTION 26. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 901.26 of Title 17, unless there
16 is created a duplication in numbering, reads as follows:

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

22 SECTION 27. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 901.27 of Title 17, unless there
24 is created a duplication in numbering, reads as follows:

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

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

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

7 B. The Oklahoma Corporation Commission is entitled to recover
8 reasonable expenses, including reasonable attorney fees, court costs
9 and investigatory costs, incurred in obtaining injunctive relief or
10 civil penalties, or both, under this section. Amounts collected
11 under this section shall be deposited in a dedicated account in the
12 General Revenue Fund and may be appropriated only for the purposes
13 of the administration and enforcement of this act.

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

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

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

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

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

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

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