

2019 Regular Session

HOUSE BILL NO. 465

BY REPRESENTATIVE JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COMMERCE: Provides relative to internet privacy and protection

1 AN ACT

2 To enact Chapter 8-N of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 45:844.91 through 844.96, relative to internet privacy; to create the "Internet
4 and Social Media Privacy and Protection Act"; to provide for internet privacy and
5 the protection of consumer personal information; to provide for definitions; to
6 provide for consent; to provide for disclosures; to provide for violations; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 8-N of Title 45 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 45:844.91 through 844.96, is hereby enacted to read as follows:

11 CHAPTER 8-N. INTERNET

12 AND SOCIAL MEDIA DATA PRIVACY AND PROTECTION ACT

13 §844.91. Short title

14 This Chapter shall be known and may be cited as the "Internet and Social
15 Media Privacy and Protection Act".

16 §844.92. Definitions

17 As used in this Chapter, the following terms and phrases have the meanings
18 herein ascribed to them:

19 (1)(a) "Broadband internet access service" means any of the following:

1 (i) A mass-market retail service provided by wire, cable, fiber optics,
2 satellite, wireless broadband, or radio that is always on and enables a consumer to
3 transmit data to or receive data from internet endpoints.

4 (ii) Any service that the Federal Communications Commission finds is
5 providing a service that is the functional equivalent of the service described in this
6 Paragraph.

7 (iii) Any service that is incidental to or that enables the operation of the
8 services described in this Paragraph.

9 (b) "Broadband internet access service" does not include dial-up internet
10 access service.

11 (2) "Broadband internet access service provider" means a person or entity
12 that provides broadband internet access service.

13 (3) "Consumer" means any of the following:

14 (a) A current subscriber, former subscriber, or person applying for a
15 subscription to broadband internet access service.

16 (b) Any person who seeks or acquires, by purchase or lease, any good,
17 service, money, or credit for personal, family, or household purposes from an
18 internet website or online service of an operator.

19 (c) A user as defined in this Section.

20 (4) "Consumer personal information" means any one or more of the following
21 items of personally identifiable information about a consumer collected by a
22 broadband internet access service provider or operator, social media company, or
23 search engine:

24 (a) A first and last name.

25 (b) A home or other physical address which includes the name of a street and
26 the name of a city or town.

27 (c) An electronic mail address.

28 (d) A telephone number.

29 (e) A social security number.

1 (f) Any identifier that allows the consumer or user to be contacted either
2 physically or online.

3 (g) Any billing or other financial information.

4 (h) Any demographic data.

5 (i) Information about an individual consumer's use of broadband internet
6 access service including internet browsing history and application usage history.

7 (j) Any device identifier associated with the consumer's subscription to
8 broadband internet access service, such as a media access control address, an
9 international mobile equipment identity, or an internet protocol address.

10 (k) The consumer's precise location.

11 (l) Information pertaining to the consumer's finances, health, or children.

12 (m) Any content regarding the consumer's internet communications.

13 (5) "Online service" means an entity that provides unlimited access to
14 information over the internet. The term includes but is not limited to search engines,
15 cloud storage services, and application service providers.

16 (6)(a) "Operator" means a person or entity who does any of the following:

17 (i) Owns or operates an internet website or online service for commercial
18 purposes.

19 (ii) Collects and maintains covered personal information from consumers
20 who reside in this state and use or visit the internet website or online service.

21 (iii) Purposefully directs its activities toward this state, consummates a
22 transaction with this state, or with a resident of this state.

23 (iv) Is employed by or otherwise works for a social media company and has
24 access to consumer personal information.

25 (b) For the purposes of this Chapter, operator also means a person or entity
26 using social media marketing.

27 (7) "Social media company" means a company that provides a user access
28 to a social media website or social networking website.

1 (8) "Social media marketing" means the use of social media websites or
2 social networking websites to market a company's products and services, providing
3 companies with ways to reach new consumers, engage with existing consumers, and
4 promote its desired culture, mission, or tone. The term includes "digital marketing"
5 and "e-marketing" and utilizes purpose-built data analytics tools to allow marketers
6 to track the success of their efforts.

7 (9) "Social media website" and "social networking website" mean any
8 internet website or application that enables users to do the following:

9 (a) Create and share content.

10 (b) Participate in social networking which facilitates social interaction with
11 other users of the website or application.

12 (c) Create a web page or profile about themselves which is available to the
13 general public or to other users.

14 (d) Communicate with other users directly.

15 (10) "Use" means to create a profile on a social media website or social
16 networking website or to contact or attempt to contact other users of the social media
17 website or social networking website.

18 (11) "User" means a person who creates a profile for use.

19 §844.93. Consumer personal information; disclosure; prohibitions; exceptions

20 A.(1)(a) No broadband internet access service provider, operator, or social
21 media company shall disclose, sell, or permit access to consumer personal
22 information unless the consumer gives express consent to disclose, sell, or permit
23 access to the consumer personal information.

24 (b) A consumer that provides consent as described in this Section may
25 revoke the consent at any time by communicating the revocation to the broadband
26 internet access service provider, operator, or social media company. The broadband
27 internet access service provider, operator, or social media company shall provide
28 consumers with an easily accessible means of communicating a revocation.

1 (2) A broadband internet access service provider, operator, or social media
2 company shall not engage in any of the following or otherwise retaliate on the basis
3 that the consumer does not provide consent:

4 (a) Refuse to provide service or block access to a consumer.

5 (b) Charge a consumer a higher price for service.

6 (c) Offer a consumer a discount on service on the basis that the consumer
7 provides consent.

8 (3) When consent has not been granted, a broadband internet access service
9 provider, an operator, or social media company shall only disclose or permit access
10 to consumer personal information for the following reasons:

11 (a) To protect the rights or property of either party in cases involving fraud,
12 abuse, or unlawful use of or subscription to the broadband internet access service or
13 social media company.

14 (b) To comply with a court order.

15 (c) To disclose, sell, or permit access to an aggregate dataset from which
16 information that may be used to identify an individual consumer has been removed
17 or provided that no person having access to the aggregate dataset shall use the
18 information to identify an individual consumer.

19 (d) To provide the precise location of the consumer in any of the following
20 circumstances:

21 (i) In an emergency situation to a public safety answering point, emergency
22 medical services provider, emergency dispatch center, law enforcement officer or
23 agency, fire service professional or agency, hospital, or trauma care facility.

24 (ii) In an emergency situation involving the risk of death or serious bodily
25 harm to the consumer or a member of the consumer's immediate family.

26 (iii) In response to an emergency situation to providers of information or
27 providers of database management services for the sole purpose of assisting the
28 delivery of emergency services.

29 §844.94. Required notice to consumers; social media

1 A. A social media company shall make available, in a manner reasonably
2 accessible by a consumer whose covered personal information the social media
3 company collects through its internet website, online service, or social media
4 website, a notice to the consumer that does each of the following:

5 (1) Identifies the categories of covered personal information the social media
6 company collects about a consumer and the categories of third parties with whom the
7 social media company may share the covered personal information.

8 (2) Provides a description of the process, if any exists, for an individual
9 consumer to review and request changes to any of the consumer's covered personal
10 information.

11 (3) Describes the process by which the social media company notifies a
12 consumer of material changes to the notice.

13 (4) Discloses whether a third party may collect covered personal information
14 about an individual consumer's online activity over time and across different internet
15 websites, online services, social media websites, or social networking websites.

16 (5) States the effective date of the notice.

17 B. A social media company may remedy any failure to comply with the
18 provisions of Subsection A of this Section within thirty days of the date of being
19 informed of the failure, by providing a notice.

20 §844.95. Required notice to consumers; broadband internet access service provider

21 A. A broadband internet access service provider shall make available, in a
22 manner reasonably accessible by consumers whose covered personal information the
23 broadband internet access service provider collects through its online service, a
24 notice to the consumer that does each of the following:

25 (1) Identifies the categories of covered personal information the broadband
26 internet access service provider collects about consumers and the categories of third
27 parties with whom the broadband internet access service provider may share the
28 covered personal information.

1 (2) Provides a description of the process, if any exists, for an individual
2 consumer to review and request changes to any of the consumer's covered personal
3 information.

4 (3) Describes the process by which the broadband internet access service
5 provider notifies consumers of material changes to the notice.

6 (4) Discloses whether a third party may collect covered personal information
7 about an individual consumer's online activity over time and across different internet
8 websites, online services, social media websites, or social networking websites.

9 (5) States the effective date of the notice.

10 B. A social media company may remedy any failure to comply with the
11 provisions of Subsection A of this Section within thirty days of the date of being
12 informed of the failure, by providing a notice.

13 §844.96. Right of action

14 A consumer whose personal information has been unlawfully disclosed or
15 sold or to which access has been granted in violation of the provisions of this
16 Chapter is entitled to a private right of action in a district court of competent
17 jurisdiction for damages against the broadband internet access service provider,
18 operator, or social media company that unlawfully disclosed, sold, or permitted
19 access to the consumer's personal information.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 465 Original

2019 Regular Session

Jordan

Abstract: Creates the Internet and Social Media Data Privacy and Protection Act.

Proposed law creates the Internet and Social Media Data Privacy and Protection Act to protect consumer's private confidential information that is obtained by internet, broadband, and social media companies.

Proposed law prohibits any broadband internet access service provider or social media company from sharing a consumer's personal information including the following:

- (1) Name.

- (2) Address including the name of a street and the name of a city or town.
- (3) Electronic mail address.
- (4) Telephone number.
- (5) Social security number.
- (6) Any identifier that allows the consumer to be contacted either physically or online.
- (7) Billing or other financial information.
- (8) Demographic data.
- (9) Internet browsing history and application usage history.
- (10) Any device identifier associated with the consumer's subscription to broadband internet access service, such as a media access control address, an international mobile equipment identity, or an internet protocol address.
- (11) The consumer's precise location.
- (12) Information pertaining to the consumer's finances, health, or children.
- (13) Internet communications.

Proposed law requires both internet access server providers and social media companies to provide notice to consumers of which consumer personal information is being collected and shared.

Proposed law requires a consumer to give express permission in order for his personal information to be shared or sold. Proposed law requires internet access service providers and social media companies to provide, in a conspicuous easy-to-find location, a form to grant permission to share information as well as a form to revoke permission for sharing information.

Proposed law allows a consumer to revoke permission for his information to be shared at any time.

Proposed law prohibits an internet access service provider and social media company from retaliating against a consumer for not granting permission to share the consumer's information by raising rates or blocking access to service. Proposed law further prohibits the company from incentivizing consumers to share information by offering a discount on service.

Proposed law provides a private right of action in a district court of competent jurisdiction for violations of present law.

(Adds R.S. 45:844.91 - 844.96)