

Senate Bill 394

By: Senators Dolezal of the 27th, Miller of the 49th, Dugan of the 30th, Ginn of the 47th, Burke of the 11th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 10 and 50 of the Official Code of Georgia Annotated, relating to commerce
2 and trade and state government, respectively, so as to enact the "Georgia Computer Data
3 Privacy Act"; to protect the privacy of computer data and the personal information of
4 individuals in this state; to provide for a short title; to provide for legislative findings and
5 declarations; to provide for definitions; to provide for applicability and exemptions; to
6 provide for construction and conflicts of law; to provide authority for the Georgia
7 Technology Authority to implement, administer, and enforce certain provisions and to
8 promulgate rules and regulations; to provide guidelines for the use of personal information
9 in research; to provide consumers with the right to request disclosure and deletion of certain
10 information and the right to opt in and out of the sale of their personal information; to require
11 that businesses collecting consumer data information inform the consumer as to the nature,
12 use, and purpose of such personal information collected; to require consumer consent for use
13 of personal information; to require businesses to provide certain policies to consumers; to
14 implement requirements concerning certain consumer requests; to require permission before
15 taking certain actions as to de-identified information; to prohibit discrimination by businesses
16 against consumers for exercising their rights; to allow for financial incentives to consumers
17 for the collection, sale, or disclosure of their personal information; to provide for injunctive
18 relief, civil penalties, and private causes of action; to provide certain immunities; to provide

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19 certain protections to service providers; to provide for related matters; to provide for
20 effective dates; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 SECTION 1.

23 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
24 amended by adding a new article to Chapter 1, relating to selling and other trade practices,
25 to read as follows:

26 "ARTICLE 35

27 10-1-930.

28 This article shall be known and may be cited as the 'Georgia Computer Data Privacy Act.'

29 10-1-931.

30 The General Assembly finds and declares that:

31 (1) Individuals within this state have a right to prohibit retention, use, or disclosure of
32 their own personal data;

33 (2) Individuals within this state have previously been exploited for monetary gain and
34 manipulation by private ventures in utilization of private data;

35 (3) The protection of individuals within Georgia and their data is a core governmental
36 function in order to protect the health, safety, and welfare of individuals within this state;

37 (4) The terms and conditions set forth in this article are the least restrictive alternative
38 necessary to protect individuals within Georgia and their rights; and

39 (5) The use of a strictly 'opt-out' method for data privacy is ineffectual and poses an
40 immediate risk to the health, safety, and welfare of individuals within this state.

41 10-1-932.

42 As used in this article, the term:

43 (1) 'Aggregate consumer information' means information that relates to a group or
44 category of consumers from which individual consumer identities have been removed and
45 that is not linked or reasonably linkable to a particular consumer or household, including,
46 but not limited to, linkable through a device. Such term does not include one or more
47 individual consumer records that have been de-identified.

48 (2) 'Biometric information' means an individual's physiological, biological, or behavioral
49 characteristics that can be used, alone or in combination with other characteristics or
50 other identifying data, to establish the individual's identity. Such term includes:

51 (A) Deoxyribonucleic acid (DNA);

52 (B) An image of an iris, retina, fingerprint, face, hand, palm or vein pattern, or a voice
53 recording from which an identifier template can be extracted, including, but not limited
54 to, a faceprint, minutiae template, or voiceprint;

55 (C) Keystroke patterns or rhythms;

56 (D) Gait patterns or rhythms; and

57 (E) Sleep, health, or exercise data that contains identifying information.

58 (3) 'Business' means a for-profit entity. Such term does not include an internet service
59 provider so long as such internet service provider is acting in the role of an internet
60 service provider.

61 (4) 'Business purpose' means the use of personal information for:

62 (A) The following operational purposes of a business or service provider, provided that
63 the use of the personal information is reasonably necessary and proportionate to achieve
64 the operational purpose for which the personal information was collected or processed
65 or another operational purpose that is compatible with the context in which the personal
66 information was collected:

- 67 (i) Auditing related to a current interaction with a consumer and any concurrent
68 transactions, including, but not limited to, counting ad impressions to unique visitors,
69 verifying the positioning and quality of ad impressions, and auditing compliance with
70 a specification or other standards for ad impressions;
- 71 (ii) Detecting a security incident; protecting against malicious, deceptive, fraudulent,
72 or illegal activity; and prosecuting those responsible for any illegal activity described
73 by this division;
- 74 (iii) Identifying and repairing or removing errors that impair the intended
75 functionality of computer hardware or software;
- 76 (iv) Using personal information in the short term or for a transient use, provided that
77 the personal information is not disclosed to a third party;
- 78 (v) Performing a service on behalf of the business or service provider, including, but
79 not limited to:
- 80 (I) Maintaining or servicing an account, providing customer service, processing or
81 fulfilling an order or transaction, verifying customer information, processing a
82 payment, providing financing, providing advertising or marketing services, or
83 providing analytic services; or
- 84 (II) Performing a service similar to a service described by subdivision (I) of this
85 division on behalf of the business or service provider;
- 86 (vi) Undertaking internal research for technological development and demonstration;
87 or
- 88 (vii) Undertaking an activity to:
- 89 (I) Verify or maintain the quality or safety of a service or device that is owned by,
90 manufactured by, manufactured for, or controlled by the business; or
- 91 (II) Improve, upgrade, or enhance a service or device described by subdivision (I)
92 of this division; or
- 93 (B) Another operational purpose for which notice is given under this article.

- 94 (5) 'Categories of personal information' means the categories of information described
95 in subparagraphs (A) through (N) of paragraph (17) of this Code section.
- 96 (6) 'Collect' means to buy, rent, gather, obtain, receive, or access the personal
97 information of a consumer by any means, including, but not limited to, by actively or
98 passively receiving the personal information from the consumer.
- 99 (7) 'Commercial purpose' means a purpose that is intended to result in a profit or other
100 tangible benefit or the advancement of a person's commercial or economic interests, such
101 as by inducing another person to buy, rent, lease, subscribe to, provide, or exchange
102 products, goods, property, information, or services or by enabling or effecting, directly
103 or indirectly, a commercial transaction. Such term does not include the purpose of
104 engaging in speech recognized by state or federal courts as noncommercial speech,
105 including, but not limited to, political speech and journalism.
- 106 (8) 'Consent' means an act that clearly and conspicuously communicates the individual's
107 freely given, specific, informed, and unambiguous authorization of an act or practice.
108 Such term does not mean authorization of an act or practice that was accepted:
- 109 (A) As part of general or broad terms of use;
110 (B) By hovering over, muting, pausing, or closing a given piece of content; or
111 (C) Through a dark pattern.
- 112 (9) 'Consumer' means an individual who is a resident of this state.
- 113 (10) 'Dark pattern' means a user interface designed or manipulated with the purpose or
114 substantial effect of obscuring, subverting, or impairing user autonomy, decision-making,
115 or choice.
- 116 (11) 'De-identified information' means information that cannot reasonably identify, relate
117 to, describe, be associated with, or be linked to, directly or indirectly, a particular
118 consumer.
- 119 (12) 'Device' means any physical object capable of connecting to the internet, directly
120 or indirectly, or to another device.

121 (13) 'For-profit entity' means a sole proprietorship, partnership, limited liability
122 company, corporation, association, or other legal entity that is organized or operated for
123 the profit or financial benefit of the entity's shareholders or other owners.

124 (14) 'Identifier' means data elements or other information that alone or in conjunction
125 with other information can be used to identify a particular consumer, household, or
126 device that is linked to a particular consumer or household.

127 (15) 'Internet service provider' means a person who provides a mass-market retail service
128 by wire, radio, or satellite that provides the capability to transmit data and to receive data
129 from all or substantially all internet endpoints, including, but not limited to, any
130 capabilities that are incidental to and enable the operations of the service, excluding
131 dial-up internet access service.

132 (16) 'Person' means an individual, sole proprietorship, firm, partnership, joint venture,
133 syndicate, business trust, company, corporation, limited liability company, association,
134 committee, and any other organization or group of persons acting in concert.

135 (17) 'Personal information' means information that identifies, relates to, describes, can
136 be associated with, or can reasonably be linked to, directly or indirectly, a particular
137 consumer or household. Such term includes the following categories of information if
138 the information identifies, relates to, describes, can be associated with, or can reasonably
139 be linked to, directly or indirectly, a particular consumer or household:

140 (A) An identifier, including, but not limited to, a real name, alias, mailing address,
141 account name, date of birth, driver's license number, social security number, passport
142 number, signature, telephone number, or other government issued identification
143 number, or other similar identifier;

144 (B) An online identifier, including, but not limited to, an electronic mail address or
145 Internet Protocol address, or other similar identifier;

146 (C) A physical characteristic or description, including, but not limited to, a
147 characteristic of a protected classification under the laws of this state or federal law;

- 148 (D) Commercial information, including:
149 (i) A record of personal property;
150 (ii) A good or service purchased, obtained, or considered;
151 (iii) An insurance policy number; or
152 (iv) Other purchasing or consuming histories or tendencies;
- 153 (E) Biometric information;
- 154 (F) Internet or other electronic network activity information, including:
155 (i) Browsing or search history; and
156 (ii) Other information regarding a consumer's interaction with a website, application,
157 or advertisement;
- 158 (G) Geolocation data;
- 159 (H) Audio, electronic, visual, thermal, olfactory, or other similar information;
- 160 (I) Professional or employment related information;
- 161 (J) Education information that is not publicly available personally identifiable
162 information under the Family Educational Rights and Privacy Act of 1974;
- 163 (K) Financial information, including a financial institution account number, credit or
164 debit card number, or password or access code associated with a credit or debit card or
165 bank account;
- 166 (L) Medical information;
- 167 (M) Health insurance information; or
- 168 (N) Inferences drawn from any of the information listed under this paragraph to create
169 a profile about a consumer that reflects the consumer's preferences, characteristics,
170 psychological trends, predispositions, behavior, attitudes, intelligence, abilities, or
171 aptitudes.
- 172 (18) 'Processing information' means performing any operation or set of operations on
173 personal data or on sets of personal data, whether or not by automated means.

174 (19) 'Publicly available information' means information that is lawfully made available
175 to the public from federal, state, or local government records. Such term does not
176 include:

177 (A) Biometric information of a consumer collected by a business without the
178 consumer's knowledge or consent;

179 (B) Data that is used for a purpose that is not compatible with the purpose for which
180 the data is:

181 (i) Publicly maintained; or

182 (ii) Maintained in and made available from government records; or

183 (C) De-identified or aggregate consumer information.

184 (20) 'Service provider' means a for-profit entity that processes information on behalf of
185 a business and to which the business discloses, for a business purpose, a consumer's
186 personal information under a written contract, provided that the contract prohibits the
187 entity receiving the personal information from retaining, using, or disclosing the personal
188 information for any purpose other than:

189 (A) Providing the services specified in the contract with the business; or

190 (B) For a purpose permitted by this article, including, but not limited to, for a
191 commercial purpose other than providing those specified services.

192 (21) 'Third party' means a person who is not:

193 (A) A business to which this article applies that collects personal information from
194 consumers; or

195 (B) A person to whom the business discloses, for a business purpose, a consumer's
196 personal information under a written contract, provided that the contract:

197 (i) Prohibits the person receiving the personal information from:

198 (I) Selling the personal information;

199 (II) Retaining, using, or disclosing the personal information for any purpose other
200 than providing the services specified in the contract, including, but not limited to,
201 for a commercial purpose other than providing those services; and

202 (III) Retaining, using, or disclosing the personal information outside of the direct
203 business relationship between the person and the business; and

204 (ii) Includes a certification made by the person receiving the personal information
205 that the person understands and will comply with the prohibitions under division (i)
206 of this subparagraph.

207 (22) 'Verifiable consumer request' means a request:

208 (A) That is made by a consumer, a consumer on behalf of the consumer's minor child,
209 or a natural person or person who is authorized by a consumer to act on the consumer's
210 behalf; and

211 (B) That a business can reasonably verify, in accordance with rules and regulations
212 adopted under Code Section 10-1-939, was submitted by the consumer about whom the
213 business has collected personal information.

214 10-1-933.

215 (a) This article shall apply only to:

216 (1) A business that:

217 (A) Does business in this state;

218 (B) Collects consumers' personal information or has that personal information collected
219 on the business's behalf;

220 (C) Alone or in conjunction with others, determines the purpose for and means of
221 processing consumers' personal information;

222 (D) Has annual gross revenue in an amount that exceeds \$50 million;

223 (E) Alone or in combination with others, annually buys, sells, or receives or shares for
224 commercial purposes the personal information of 100,000 or more consumers,
225 households, or devices; and

226 (F) Derives 50 percent or more of the business's annual revenue from selling
227 consumers' personal information; and

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

230 (b) For purposes of paragraph (2) of subsection (a) of this subsection, the term 'control'
231 means:

232 (1) The ownership of, or power to vote, more than 50 percent of the outstanding shares
233 of any class of voting security of a business;

234 (2) The control in any manner over the election of a majority of the directors or of
235 individuals exercising similar functions; or

236 (3) The power to exercise a controlling influence over the management of a company.

237 (c) For purposes of this article, a business sells a consumer's personal information to
238 another business or a third party if the business sells, rents, discloses, disseminates, makes
239 available, transfers, or otherwise communicates, orally, in writing, or by electronic or other
240 means, the personal information to the other business or third party for monetary or other
241 valuable consideration.

242 (d) For purposes of this article, a business does not sell a consumer's personal information
243 if:

244 (1) The consumer directs the business to intentionally disclose the personal information
245 or uses the business to intentionally interact with a third party, provided that the third
246 party does not sell the personal information, unless that disclosure is consistent with this
247 article; or

248 (2) The business:

249 (A) Uses or shares an identifier of the consumer to alert a third party that the consumer
250 has opted out of the sale of the personal information;

251 (B) Uses or shares with a service provider a consumer's personal information that is
252 necessary to perform a business purpose if:

253 (i) The business provided notice that the personal information is being used or shared
254 in the business's terms and conditions consistent with Code Sections 10-1-944 and
255 10-1-947; and

256 (ii) The service provider does not further collect, sell, or use the personal information
257 except as necessary to perform the business purpose; or

258 (C) Transfers to a third party a consumer's personal information as an asset that is part
259 of a merger, acquisition, bankruptcy, or other transaction in which the third party
260 assumes control of all or part of the business, provided that personal information is used
261 or shared in a manner consistent with Code Sections, 10-1-941, 10-1-943, and
262 10-1-944.

263 (e) For purposes of paragraph (1) of subsection (d) of this Code section, an intentional
264 interaction occurs if the consumer does one or more deliberate acts with the intent to
265 interact with a third party. Placing a cursor over, muting, pausing, or closing online content
266 shall not constitute a consumer's intent to interact with a third party.

267 10-1-934.

268 (a) This article shall not apply to:

269 (1) Publicly available information;

270 (2) Protected health information governed by state health privacy laws, or collected by
271 a covered entity or a business associate of a covered entity, as those terms are defined by
272 45 C.F.R. Section 160.103, that is governed by the privacy, security, and breach
273 notification rules in 45 C.F.R. Parts 160 and 164 adopted by the United States
274 Department of Health and Human Services under the Health Insurance Portability and

275 Accountability Act of 1996 (Pub. L. No. 104-191) and Title XIII of the American
276 Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5);
277 (3) A health care provider governed by state health privacy laws, or a covered entity
278 described in paragraph (2) of this subsection to the extent that the provider or entity
279 maintains the personal information of a patient in the same manner as protected health
280 information described by paragraph (2) of this subsection;
281 (4) Information collected as part of a clinical trial subject to the Federal Policy for the
282 Protection of Human Subjects in accordance with clinical practice guidelines issued by
283 the International Council for Harmonisation or the human subject protection requirements
284 of the United States Food and Drug Administration;
285 (5) The sale of personal information to or by a consumer reporting agency if the personal
286 information is to be:
287 (A) Reported in or used to generate a consumer report, as defined by Section 1681a(d)
288 of the Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.); and
289 (B) Used solely for a purpose authorized under that article;
290 (6) Personal information collected, processed, sold, or disclosed in accordance with:
291 (A) The Gramm-Leach-Bliley Act (Pub. L. No. 106-102) and its implementing
292 regulations; or
293 (B) The Driver's Privacy Protection Act of 1994 (18 U.S.C. Section 2721, et seq.);
294 (7) De-identified or aggregate consumer information; or
295 (8) A consumer's personal information collected or sold by a business, if every aspect
296 of the collection or sale occurred wholly outside of this state.
297 (b) For purposes of paragraph (8) of subsection (a) of this Code section, the collection or
298 sale of a consumer's personal information occurs wholly outside of this state if:
299 (1) The business collects that personal information while the consumer is outside of this
300 state;
301 (2) No part of the sale of the personal information occurs in this state; and

302 (3) The business does not sell any personal information of the consumer collected while
303 the consumer is in this state.

304 (c) For purposes of subsection (b) of this Code section, the collection or sale of a
305 consumer's personal information does not occur wholly outside of this state if a business
306 stores a consumer's personal information, but not limited to, storing on a device, when the
307 consumer is in this state and subsequently collects or sells that stored personal information
308 when the consumer and the personal information are outside of this state.

309 10-1-935.

310 A right or obligation under this article shall not apply to the extent that the exercise of the
311 right or performance of the obligation infringes on a noncommercial activity of:

312 (1) A publisher, editor, reporter, or other person connected with or employed by a
313 newspaper, magazine, or other publication of general circulation, including, but not
314 limited to, a periodical newsletter, pamphlet, or report;

315 (2) A radio or television station that holds a license issued by the Federal
316 Communications Commission; or

317 (3) An entity that provides an information service, including a press association or wire
318 service.

319 10-1-936.

320 This article shall not be construed to:

321 (1) Restrict a business's ability to:

322 (A) Comply with:

323 (i) Applicable federal, state, or local laws; or

324 (ii) A civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by
325 a federal, state, or local authority;

326 (B) Cooperate with a law enforcement agency concerning conduct or activity that the
327 business, a service provider of the business, or a third party reasonably and in good
328 faith believes may violate other applicable federal, state, or local laws; or

329 (C) Pursue or defend against a legal claim; or

330 (2) Require a business to violate an evidentiary privilege under federal or state law or
331 prevent a business from disclosing to a person covered by an evidentiary privilege the
332 personal information of a consumer as part of a privileged communication.

333 10-1-937.

334 (a) This article shall be liberally construed to effect its purposes and to harmonize, to the
335 extent possible, with other laws of this state relating to the privacy or protection of personal
336 information.

337 (b) To the extent of a conflict between a provision of this article and a provision of federal
338 law, including a regulation or an interpretation of federal law, federal law controls, and
339 conflicting requirements or other provisions of this article do not apply.

340 (c) To the extent of a conflict between a provision of this article and another statute of this
341 state with respect to the privacy or protection of consumers' personal information, the
342 provision of law that affords the greatest privacy or protection to consumers prevails.

343 10-1-938.

344 This article shall preempt and supersede any ordinance, order, regulation, or rule adopted
345 by the governing authority of a county, municipality, or consolidated government of this
346 state relating to the collection or sale by a business of a consumer's personal information.

347 10-1-939.

348 (a) The Georgia Technology Authority shall adopt rules and regulations necessary to
349 implement, administer and enforce this article.

350 (b) The rules and regulation adopted under subsection (a) of this Code section shall
351 establish:

352 (1) Procedures governing the determination of, submission of, and compliance with a
353 verifiable consumer request for information with the goal of minimizing administrative
354 burdens on consumers and businesses subject to this article by taking into account
355 available technology and security concerns, including, but not limited to:

356 (A) Treating as a verifiable consumer request a request submitted through a
357 password-protected online account maintained by the consumer with the business while
358 logged into the account; and

359 (B) Providing a mechanism for a request submitted by a consumer who does not
360 maintain an account with the business;

361 (2) Procedures to facilitate and govern the submission of and compliance with a request
362 to opt out of or opt in to the sale of personal information under Code Section 10-1-944;

363 (3) Guidelines for the development of a recognizable and uniform opt-in logo or button
364 for use on businesses' websites in a manner that promotes consumer awareness of the
365 opportunity to opt in to the sale of personal information; and

366 (4) Procedures and guidelines, including, but not limited to, any necessary exceptions,
367 to ensure that the notices and information businesses are required to provide under this
368 article, including, but not limited to, information regarding financial incentive offerings,
369 are:

370 (A) Provided in a manner that is easily understood by the average consumer;

371 (B) Accessible by consumers with disabilities; and

372 (C) Available in the languages primarily used by consumers to interact with
373 businesses.

374 (c) The Georgia Technology Authority may adopt other rules and regulations necessary
375 to further the purposes of this article, including, but not limited to, rules and regulations as
376 necessary to:

377 (1) Further specify the categories of personal information and identifiers accounting for
378 privacy concerns, implementation obstacles, or changes in technology and data collection
379 methods;

380 (2) Further specify or streamline the designated methods for submitting requests to
381 facilitate a consumer's ability to obtain information from a business under Code Section
382 10-1-948; and

383 (3) Establish any exceptions necessary to comply with federal law or other laws of this
384 state, including, but not limited to, laws relating to trade secrets and intellectual property
385 rights.

386 10-1-940.

387 Any research with personal information that may have been collected from a consumer in
388 the course of the consumer's interactions with a business's service or device for other
389 purposes shall be:

390 (1) Compatible with the business purpose for which the personal information was
391 collected;

392 (2) Subsequently pseudonymized and de-identified, or de-identified and in the aggregate,
393 such that the personal information cannot reasonably identify, relate to, describe, be
394 capable of being associated with, or be linked, directly or indirectly, to a particular
395 consumer;

396 (3) Made subject to technical safeguards that prohibit re-identification of the consumer
397 to whom the personal information may pertain;

398 (4) Subject to business processes that specifically prohibit re-identification of the
399 personal information;

400 (5) Made subject to business processes to prevent inadvertent release of de-identified
401 information;

402 (6) Protected from any re-identification attempts;

403 (7) Used solely for research purposes that are compatible with the context in which the
404 personal information was collected;

405 (8) Not used for any commercial purpose; and

406 (9) Subjected by the business conducting the research to additional security controls that
407 limit access to the research data to only those individuals in a business as are necessary
408 to carry out the research purpose.

409 10-1-941.

410 (a) A consumer is entitled to request that a business that collects the consumer's personal
411 information disclose to the consumer the categories and specific items of personal
412 information the business has collected.

413 (b) To receive the disclosure of information under subsection (a) of this Code section, a
414 consumer shall submit to the business a verifiable consumer request using a method
415 designated by the business under Code Section 10-1-948.

416 (c) On receipt of a verifiable consumer request under this Code section, a business shall
417 disclose to the consumer in the time and manner provided by Code Section 10-1-950:

418 (1) Each of the enumerated categories of personal information and each item within each
419 of the categories of personal information that the business collected about the consumer
420 during the 12 months preceding the date of the request;

421 (2) Each category of sources from which the personal information was collected;

422 (3) The business or commercial purpose for collecting or selling the personal
423 information; and

424 (4) Each category of third parties with whom the business shares the personal
425 information.

426 (d) A business shall not be required to:

427 (1) Retain a consumer's personal information that was collected for a one-time
428 transaction if the personal information is not sold or retained in the ordinary course of
429 business; or

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

432 10-1-942.

433 (a) A consumer is entitled to request that a business that collects the consumer's personal
434 information delete any personal information the business has collected from the consumer
435 by submitting a verifiable consumer request using a method designated by the business
436 under Code Section 10-1-948.

437 (b) Except as provided by subsection (c) of this Code section, on receipt of a verifiable
438 consumer request under this Code section a business shall delete from the business's
439 records any personal information collected from the consumer and direct a service provider
440 of the business to delete the personal information from the provider's records.

441 (c) A business or service provider of the business is not required to comply with a
442 verifiable consumer request received under this Code section if the business or service
443 provider needs to retain the consumer's personal information to:

444 (1) Complete the transaction for which the personal information was collected;

445 (2) Provide a good or service requested by the consumer in the context of the ongoing
446 business relationship between the business and consumer;

447 (3) Perform under a contract between the business and the consumer;

448 (4) Detect a security incident; protect against malicious, deceptive, fraudulent, or illegal
449 activity; or prosecute those responsible for any such malicious, deceptive, fraudulent, or
450 illegal activity;

451 (5) Identify and repair or remove errors from computer hardware or software that impair
452 its intended functionality;

453 (6) Exercise free speech or ensure the right of another consumer to exercise the right of
454 free speech or another right afforded by law;

455 (7) Comply with a court order or subpoena or other lawful process; or

456 (8) Engage in public or peer-reviewed scientific, historical, or statistical research that is
457 in the public interest and that adheres to all other applicable ethics and privacy laws,
458 provided that:

459 (A) The business's deletion of the personal information is likely to render impossible
460 or seriously impair the achievement of that research; and

461 (B) The consumer has previously provided to the business informed consent to retain
462 the personal information for such use.

463 (d) Where a business, service provider, or third party has made a consumer's personal
464 information public, such business, service provider, or third party shall:

465 (1) Take all reasonable steps, including, but not limited to, technical measures, to erase
466 the personal information that the business, service provider, or third party made public
467 taking into account available technology and the cost of implementation; and

468 (2) Also advise any other business, service provider, or third party with whom a contract
469 regarding the consumer exists that the consumer has requested the erasure of any links
470 to, copies of, or replication of that personal information.

471 10-1-943.

472 (a) A consumer is entitled to request that a business that sells or, for a business purpose,
473 discloses the consumer's personal information disclose to the consumer:

474 (1) The categories of personal information the business collected about the consumer;

475 (2) The categories of personal information about the consumer the business sold or
476 disclosed; and

477 (3) The categories of third parties to whom the personal information was sold or
478 disclosed.

479 (b) To receive the disclosure of information under subsection (a) of this Code section, a
480 consumer shall submit to the business a verifiable consumer request using a method
481 designated by the business under Code Section 10-1-948.

482 (c) On receipt of a verifiable consumer request under this Code section, a business shall
483 disclose to the consumer in the time and manner provided by Code Section 10-1-950:

484 (1) Each of the enumerated categories of personal information that the business collected
485 about the consumer during the 12 months preceding the date of the request;

486 (2) The categories of third parties to whom the business sold the consumer's personal
487 information during the 12 months preceding the date of the request, by reference to each
488 of the enumerated categories of personal information sold to each third party; and

489 (3) The categories of third parties to whom the business disclosed for a business purpose
490 the consumer's personal information during the 12 months preceding the date of the
491 request, by reference to each of the enumerated categories of personal information
492 disclosed to each third party.

493 (d) A business shall provide the information described in paragraphs (2) and (3) of
494 subsection (c) of this Code section in two separate lists.

495 (e) A business that did not sell or for a business purpose disclose the consumer's personal
496 information during the 12 months preceding the date of receiving the consumer's verifiable
497 consumer request under this Code section shall disclose that fact to the consumer.

498 10-1-944.

499 (a) A consumer is entitled at any time to opt out of the sale of the consumer's personal
500 information by a business to third parties by directing the business not to sell such personal
501 information. A consumer may authorize another person solely to opt out of the sale of the
502 consumer's personal information on the consumer's behalf. Except as provided by
503 subsection (c) of this Code section, a business shall comply with a direction not to sell that
504 is received under this subsection.

505 (b) A business that sells to a third party consumers' personal information shall provide on
506 the home page of the business's website:

507 (1) Notice to consumers that:

508 (A) The personal information may be sold;

509 (B) Identifies the persons to whom the personal information will or could be sold;

510 (C) The pro rata value of the consumer's personal information that is being sold; and

511 (D) Consumers have the right to opt in to the sale; and

512 (2) A clear and conspicuous link that enables a consumer, or if applicable, a person
513 authorized by the consumer, to opt in to the sale of the consumer's personal information.

514 (c) A business may not sell to a third party the personal information of a consumer who
515 does not opt in to the sale of that personal information on or after September 1, 2022, or
516 after a consumer submits a verifiable request to opt out of any future sale.

517 (d) A business may use any personal information collected from the consumer in
518 connection with the consumer's opting out under this Code section solely to comply with
519 this Code section.

520 (e) A third party to whom a business has sold the personal information of a consumer may
521 not sell the personal information unless the consumer receives explicit notice of the
522 potential sale and is provided the opportunity to, and in fact does, exercise the right to opt
523 in to the sale as provided by this Code section.

524 (f) A business may not require a consumer to create an account with the business to opt
525 in to the sale of the consumer's personal information.

526 (g) A business or service provider shall implement and maintain reasonable security
527 procedures and practices, including, but not limited to, administrative, physical, and
528 technical safeguards appropriate to the nature of the personal information and the purposes
529 for which the personal information will be used, to protect consumers' personal information
530 from unauthorized use, disclosure, access, destruction, or modification, irrespective of
531 whether a customer has opted in or out of a sale of data.

532 10-1-945.

533 A provision of a contract or other agreement that purports to waive or limit a right, remedy,
534 or means of enforcement under this article is contrary to public policy and is void;
535 provided, however, that a consumer shall not be prevented from:

536 (1) Declining to request information from a business;

537 (2) Declining to opt in to a business's sale of the consumer's personal information; or

538 (3) Authorizing a business to sell the consumer's personal information after previously
539 opting out.

540 10-1-946.

541 (a) Beginning September 1, 2022, a business shall not collect a consumer's personal
542 information prior to notifying the consumer of each of the categories of personal
543 information to be collected and the purposes for which such categories of personal
544 information will be used and obtains the consumer's consent, which may be provided
545 electronically, to collect a consumer's personal information.

546 (b) A business shall not collect any additional categories of personal information or use
547 personal information collected for an additional purpose unless the business provides notice
548 to the consumer of any such additional categories of personal information or purpose in
549 accordance with subsection (a) of this Code section.

550 (c) If a third party that assumes control of all or part of a business as described by
551 subparagraph (d)(2)(C) of Code Section 10-1-933 materially alters the practices of the
552 business in how personal information is used or shared, and the practices are materially
553 inconsistent with a notice provided to a consumer under subsection (a) or (b) of this Code
554 section, the third party shall notify the consumer of the third party's new or changed
555 practices in a conspicuous manner that allows the consumer to easily exercise a right
556 provided under this article before the third party uses or shares the personal information.

557 (d) Subsection (c) of this Code section shall not authorize a business to make a material
558 change, retroactive change, or other change to a business's privacy policy in a manner that
559 would be a deceptive trade practice actionable under Article 15 of this chapter.

560 10-1-947.

561 (a) A business that collects, sells, or for a business purpose discloses a consumer's personal
562 information shall disclose the following information in the business's online privacy policy
563 or other notice of the business's policies:

564 (1) A description of a consumer's rights under Code Sections 10-1-941, 10-1-943, and
565 10-1-952 and designated methods for submitting a verifiable consumer request for
566 information under this article;

567 (2) For a business that collects personal information about consumers, a description of
568 the consumer's right to request the deletion of the consumer's personal information;

569 (3) Separate lists containing the categories of personal information that, during the 12
570 months preceding the date the business updated the information as required by subsection
571 (b) of this Code section, the business:

572 (A) Collected;

573 (B) Sold, if applicable; or

574 (C) Disclosed for a business purpose, if applicable;

575 (4) The categories of sources from which the personal information under paragraph (3)
576 of this subsection is collected;

577 (5) The business or commercial purposes for collecting personal information;

578 (6) If the business does not sell consumers' personal information or disclose the personal
579 information for a business or commercial purpose, a statement of that fact;

580 (7) The categories of third parties to whom the business sells or discloses personal
581 information;

582 (8) If the business sells consumers' personal information, the internet link required by
583 subsection (b) of Code Section 10-1-944; and

584 (9) If applicable, the financial incentives offered to consumers under Code Section
585 10-1-953.

586 (b) If a business described in subsection (a) of this Code section does not have an online
587 privacy policy or other notice of the business's policies, the business shall make the
588 information required under subsection (a) of this Code section available to consumers on
589 the business's website or another website the business maintains that is dedicated to
590 consumers in this state.

591 (c) A business shall update the information required under subsection (a) of this Code
592 section at least once each year.

593 10-1-948.

594 (a) A business shall designate and make available to consumers, in a form that is
595 reasonably accessible, at least two methods for submitting a verifiable consumer request
596 for personal information required to be disclosed or deleted under this article. The methods
597 shall include, at a minimum:

598 (1) A toll-free telephone number that a consumer may call to submit the request; and
599 (2) The business's website at which the consumer may submit the request, if the business
600 maintains a website.

601 (b) The methods designated under subsection (a) of this Code section may also include:

602 (1) A mailing address;
603 (2) An electronic mail address;
604 (3) Another web page or portal;
605 (4) Another contact information; or
606 (5) Any consumer-friendly method approved by the Georgia Technology Authority
607 under Code Section 10-1-939.

608 (c) A business shall not require a consumer to create an account with the business to
609 submit a verifiable consumer request.

610 10-1-949.

611 (a) A business that receives a consumer request under Code Section 10-1-941 or 10-1-943
612 shall promptly take steps to reasonably verify, in accordance with rules adopted under
613 Code Section 10-1-939, that:

614 (1) The consumer who is the subject of the request is a consumer about whom the
615 business has collected, sold, or for a business purpose disclosed personal information; and

616 (2) The request is made by:

617 (A) The consumer;

618 (B) A consumer on behalf of the consumer's minor child; or

619 (C) A person authorized to act on the consumer's behalf.

620 (b) A business may use any personal information collected from the consumer in
621 connection with the business's verification of a request under this Code section solely to
622 verify the request.

623 (c) A business that is unable to verify a consumer request under this Code section is not
624 required to comply with the request.

625 10-1-950.

626 (a) Not later than 45 days after the date a business receives a verifiable consumer request
627 under Code Section 10-1-941 or 10-1-943, the business shall disclose free of charge to the
628 consumer the information required to be disclosed under those Code sections.

629 (b) A business may extend the time in which to comply with subsection (a) of this Code
630 section once by an additional 45 days if reasonably necessary or by an additional 90 days
631 after taking into account the number and complexity of verifiable consumer requests
632 received by the business. A business that extends the time in which to comply with

633 subsection (a) of this Code section shall notify the consumer of the extension and reason
634 for the delay within the period prescribed by subsection (a) of this Code section.

635 (c) The disclosure required by subsection (a) of this Code section shall:

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

638 (2) Be made in writing and delivered to the consumer:

639 (A) By mail or electronically, at the consumer's option, if the consumer does not have
640 an account with the business; or

641 (B) Through the consumer's account with the business.

642 (d) An electronic disclosure under subsection (c) of this Code section shall be in a readily
643 accessible format that allows the consumer to electronically transmit the personal
644 information to another person or entity.

645 (e) A business is not required to make the disclosure required by subsection (a) of this
646 Code section to the same consumer more than once in a 12 month period.

647 (f) Notwithstanding subsection (a) of this Code section, if a consumer's verifiable
648 consumer request is manifestly baseless or excessive, in particular because of
649 repetitiveness, a business may charge a reasonable fee after taking into account the
650 administrative costs of compliance or refusal to comply with the request. The business
651 shall have the burden of demonstrating that a request is manifestly baseless or excessive.

652 (g) A business that does not comply with a consumer's verifiable consumer request under
653 subsection (a) of this Code section shall notify the consumer, within the time the business
654 is required to respond to a request under this Code section, of the reasons for the refusal
655 and the rights the consumer may have to appeal that decision.

656 10-1-951.

657 (a) A business that uses de-identified information may not re-identify or attempt to
658 re-identify a consumer who is the subject of de-identified information without obtaining
659 the consumer's consent or authorization.

660 (b) A business that uses de-identified information shall implement:

661 (1) Technical safeguards and business processes to prohibit re-identification of the
662 consumer to whom the information may pertain; and

663 (2) Business processes to prevent inadvertent release of de-identified information.

664 (c) This article shall not be construed to require a business to re-identify or otherwise link
665 information that is not maintained in a manner that would be considered personal
666 information.

667 10-1-952.

668 (a) A business shall not discriminate against a consumer because the consumer exercised
669 a right under this article. Such prohibited discrimination, includes, but is not limited to:

670 (1) Denying a good or service to the consumer;

671 (2) Charging the consumer a different price or rate for a good or service, including, but
672 not limited to, denying the use of a discount or other benefit or imposing a penalty;

673 (3) Providing a different level or quality of a good or service to the consumer; or

674 (4) Suggesting that the consumer will be charged a different price or rate for, or provided
675 a different level or quality of, a good or service.

676 (b) Notwithstanding subsection (a) of this Code section, a business shall not be prohibited
677 from offering or charging a consumer a different price or rate for a good or service, or
678 offering or providing to the consumer a different level or quality of a good or service, if the
679 difference is reasonably related to the value provided to the consumer by the consumer's
680 data.

681 10-1-953.

682 (a) Subject to subsection (b) of this Code section, a business may offer a financial
683 incentive to a consumer, including, but not limited to, a payment as compensation, for the
684 collection, sale, or disclosure of the consumer's personal information.

685 (b) A business may enroll a customer in a financial incentive program only if the business
686 provides to the consumer a clear description of the material terms of the program and
687 obtains the consumer's prior opt-in consent, which:

688 (1) Contains a clear description of those material terms; and

689 (2) May be revoked by the consumer at any time.

690 (c) A business shall not use financial incentive practices that are unjust, unreasonable,
691 coercive, or usurious in nature.

692 10-1-954.

693 (a) A business shall not divide a single transaction into more than one transaction with the
694 intent to avoid any requirements of this article.

695 (b) For purposes of this article, two or more substantially similar or related transactions
696 shall be considered a single transaction if the transactions:

697 (1) Are entered into contemporaneously; and

698 (2) Have at least one common party.

699 (c) A court shall disregard any intermediate transactions conducted by a business with the
700 intent to avoid any requirements of this article, including, but not limited to, the disclosure
701 of personal information by a business to a third party to avoid complying with the
702 requirements under this article applicable to a sale of the personal information.

703 10-1-955.

704 A business shall ensure that each person responsible for handling consumer inquiries about
705 the business's privacy practices or compliance with this article is informed of the

706 requirements of this article and of how to direct a consumer in exercising any of the rights
707 to which a consumer is entitled under this article.

708 10-1-956.

709 (a) Any person who violates any provision of this article shall be subject to injunctive
710 relief or a civil penalty, or both. Such civil penalty shall be owed to the state in an amount
711 not to exceed:

712 (1) Two thousand five hundred dollars for each violation; or

713 (2) Seven thousand five hundred dollars for each violation, if the violation is found to
714 be intentional.

715 (b) The Attorney General shall be entitled to recover reasonable expenses, including, but
716 not limited to, reasonable attorney's fees and court costs, incurred in obtaining injunctive
717 relief or civil penalties, or both, under this Code section. Amounts collected under this
718 Code section shall be paid into the general fund of the state treasury and may be
719 appropriated for the purposes of the administration and enforcement of this article.

720 (c) Consumers shall have a private cause of action against any person who violates this
721 article. In addition to any actual damages that may have been sustained, consumers shall
722 also be entitled to injunctive relief; damages in an amount not to exceed \$2,500.00 for each
723 violation, or \$7,500.00 for each violation, if the violation was intentional; or both.

724 10-1-957.

725 A business that discloses to a third party or for a business purpose discloses to a service
726 provider a consumer's personal information in compliance with this article shall not be held
727 liable for a violation of this article by the third party or service provider if the business does
728 not have actual knowledge or a reasonable belief that the third party or service provider
729 intends to violate this article.

730 10-1-958.

731 A business's service provider shall not be held liable for a violation of this article by the
732 business."

733 **SECTION 2.**

734 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
735 by revising paragraphs (31) and (32) of and adding a new paragraph to subsection (a) of
736 Code Section 50-25-4, relating to general powers of the Georgia Technology Authority, to
737 read as follows:

738 "(31) To coordinate the establishment and administration of one or more programs to
739 increase economic, educational, and social opportunities for citizens and businesses
740 through the promotion of the deployment of broadband services and other emerging
741 communications technologies throughout the state and to exercise any power granted to
742 the authority in Chapter 40 of this title; and

743 (32) To adopt rules and regulations to implement, administer, and enforce Article 35 of
744 Chapter 1 of Title 10, the 'Georgia Computer Data Privacy Act.' Such rules and
745 regulations shall be subject to the requirements of Chapter 13 of Title 50, the 'Georgia
746 Administrative Procedure Act;' and

747 ~~(32)~~(33) To do all things necessary or convenient to carry out the powers conferred by
748 this chapter."

749 **SECTION 3.**

750 For purposes of proposing rules and regulations, this Act shall become effective upon its
751 approval by the Governor or upon its becoming law without such approval. For all other
752 purposes, this Act shall become effective on September 1, 2022.

753

SECTION 4.

754 All laws and parts of laws in conflict with this Act are repealed.