

117TH CONGRESS  
1ST SESSION

# H. R. 5807

To establish national data privacy standards in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2021

Mr. VELA introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish national data privacy standards in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital Accountability  
5 and Transparency to Advance Privacy Act” or the “DATA  
6 Privacy Act”.

7 **SEC. 2. DEFINITIONS.**

8 (a) IN GENERAL.—In this Act:

1           (1) COLLECT.—The term “collect” means tak-  
2           ing any operation or set of operations to obtain cov-  
3           ered data, including by automated means, including  
4           purchasing, leasing, assembling, recording, gath-  
5           ering, acquiring, or procuring.

6           (2) COMMISSION.—The term “Commission”  
7           means the Federal Trade Commission.

8           (3) COVERED DATA.—The term “covered  
9           data”—

10           (A) means any information that is—

11                   (i) collected, processed, stored, or dis-  
12                   closed by a covered entity;

13                   (ii) collected over the internet or other  
14                   digital network; and

15                   (iii)(I) linked to an individual or de-  
16                   vice associated with an individual; or

17                           (II) practicably linkable to an indi-  
18                   vidual or device associated with an indi-  
19                   vidual, including by combination with sepa-  
20                   rate information, by the covered entity or  
21                   any potential recipient of the data; and

22           (B) does not include data that is—

23                   (i) collected, processed, stored, or dis-  
24                   closed solely for the purpose of employ-  
25                   ment of an individual; or

1 (ii) lawfully made available to the  
2 public from Federal, State, or local govern-  
3 ment records.

4 (4) COVERED ENTITY.—The term “covered en-  
5 tity”—

6 (A) means any entity that collects, proc-  
7 esses, stores, or discloses covered data; and

8 (B) does not include any entity that col-  
9 lects, processes, stores, or discloses covered data  
10 relating to fewer than 50,000 individuals and  
11 devices during any 12-month period.

12 (5) DISCLOSE.—The term “disclose” means  
13 taking any action with respect to covered data, in-  
14 cluding by automated means, to sell, share, provide,  
15 or otherwise transfer covered data to another entity,  
16 person, or the general public.

17 (6) PRIVACY ENHANCING TECHNOLOGY.—The  
18 term “privacy enhancing technology”—

19 (A) means any software solution, technical  
20 processes, or other technological means of en-  
21 hancing the privacy and confidentiality of an in-  
22 dividual’s covered data in data or sets of data;  
23 and

24 (B) includes anonymization and pseudony-  
25 mization techniques, filtering tools, anti-track-

1           ing technology, differential privacy tools, syn-  
2           thetic data, and secure multi-party computa-  
3           tion.

4           (7) PRIVACY RISK.—The term “privacy risk”  
5           means potential harm to an individual resulting  
6           from the collection, processing, storage, or disclosure  
7           of covered data, including—

8                   (A) direct or indirect financial loss;

9                   (B) stigmatization or reputational harm;

10                  (C) anxiety, embarrassment, fear, and  
11           other severe emotional trauma;

12                  (D) loss of economic opportunity; or

13                  (E) physical harm.

14           (8) PROCESS.—The term “process” means any  
15           operation or set of operations that is performed on  
16           covered data or on sets of covered data, including by  
17           automated means, including organizing, combining,  
18           adapting, altering, using, or transforming.

19           (9) PROTECTED CHARACTERISTIC.—The term  
20           “protected characteristic” means an individual’s  
21           race, sex, gender, sexual orientation, nationality, re-  
22           ligious belief, age, or disability status.

23           (10) PSEUDONYMOUS DATA.—The term “pseu-  
24           donymous data” means covered data that may only  
25           be linked to the identity of an individual or the iden-

1       tivity of a device associated with an individual if com-  
2       bined with separate information.

3               (11) REASONABLE INTEREST.—The term “rea-  
4       sonable interest” means—

5                       (A) a compelling business, operational, ad-  
6       ministrative, legal, or educational justification  
7       for the collection, processing, storage, or disclo-  
8       sure of covered data exists; and

9                       (B) the interest does not subject the indi-  
10       vidual linked to the covered data to an unrea-  
11       sonable privacy risk.

12               (12) SENSITIVE DATA.—The term “sensitive  
13       data” means any covered data relating to—

14                       (A) the health, biologic, physiologic, bio-  
15       metric, sexual life, or genetic information of an  
16       individual; or

17                       (B) the precise geolocation information of  
18       a device associated with an individual.

19               (13) STORE.—The term “store” means any op-  
20       eration or set of operations to continue possession of  
21       covered data, including by automated means.

22               (14) THIRD PARTY SERVICE PROVIDER.—The  
23       term “third party service provider” means any cov-  
24       ered entity that collects, processes, stores, or dis-  
25       closes covered data at the direction of, and for the

1       sole benefit of, another covered entity under a con-  
2       tract.

3       (b) MODIFIED DEFINITION BY RULEMAKING.—If the  
4       Commission determines that a term defined in paragraph  
5       (10) or (12) is not sufficient to protect an individual’s  
6       data privacy, the Commission may promulgated regula-  
7       tions under section 553 of title 5, United States Code,  
8       to modify the definition as the Commission considers ap-  
9       propriate.

10   **SEC. 3. REQUIRED PRIVACY NOTICE.**

11       (a) PRIVACY NOTICE.—Each covered entity shall post  
12       in an accessible location a notice that is concise, in con-  
13       text, in easily understandable language, accurate, clear,  
14       timely, updated, uses visualizations where appropriate,  
15       conspicuous, and free of charge regarding the covered en-  
16       tity’s privacy practices.

17       (b) CONTENTS OF NOTICE.—The notice required by  
18       subsection (a) shall include—

19               (1) a description of the covered data that the  
20       entity collects, processes, stores, and discloses, in-  
21       cluding the sources that provided the covered data if  
22       the covered entity did not collect the covered data  
23       from the individual;

1           (2) the purposes for and means by which the  
2           entity collects, processes, and stores the covered  
3           data;

4           (3) the persons and entities to whom, and pur-  
5           poses for which, the covered entity discloses the cov-  
6           ered data; and

7           (4) a conspicuous, clear, and understandable  
8           means for individuals to access the methods nec-  
9           essary to exercise their rights under sections 4 and  
10          5.

11 **SEC. 4. REQUIRED DATA PRACTICES.**

12          (a) REGULATIONS.—Not later than 1 year after the  
13          date of the enactment of this Act, the Commission shall  
14          promulgate regulations under section 553 of title 5,  
15          United States Code, that require covered entities to imple-  
16          ment, practice, and maintain certain data procedures and  
17          processes that meet the following requirements:

18               (1) MINIMUM DATA PROCESSING REQUIRE-  
19               MENTS.—Except as provided in subsection (b), re-  
20               quire covered entities to meet all of the following re-  
21               quirements regarding the means by and purposes for  
22               which covered data is collected, processed, stored,  
23               and disclosed:

24                       (A) REASONABLE.—

1 (i) IN GENERAL.—Except as provided  
2 in paragraph (3), covered data collection,  
3 processing, storage, and disclosure prac-  
4 tices must meet a reasonable interest of  
5 the covered entity, including—

6 (I) business, educational, and ad-  
7 ministrative operations that are rel-  
8 evant and appropriate to the context  
9 of the relationship between the cov-  
10 ered entity and the individual linked  
11 to the covered data;

12 (II) relevant and appropriate  
13 product and service development and  
14 enhancement;

15 (III) preventing and detecting  
16 abuse, fraud, and other criminal activ-  
17 ity;

18 (IV) reasonable communications  
19 and marketing practices that follow  
20 best practices, rules, and ethical  
21 standards;

22 (V) engaging in scientific, med-  
23 ical, or statistical research that fol-  
24 lows commonly accepted ethical stand-  
25 ards; or



1 (VI) any other purpose for which  
2 the Commission considers to be rea-  
3 sonable.

4 (ii) CONSIDERATIONS.—In promul-  
5 gating regulations in accordance with this  
6 subparagraph, the Commission shall con-  
7 sider—

8 (I) the role of impact assess-  
9 ments in determining the privacy risk  
10 for high-risk processing;

11 (II) the sensitivity of the covered  
12 data; and

13 (III) the impact of such regula-  
14 tions on small business.

15 (B) EQUITABLE.—

16 (i) IN GENERAL.—Covered data col-  
17 lection, processing, storage, and disclosure  
18 practices may not be for purposes that re-  
19 sult in discrimination against a protected  
20 characteristic, including—

21 (I) discriminatory targeted adver-  
22 tising practices;

23 (II) price, service, or employment  
24 opportunity discrimination; or

1 (III) any other practice the Com-  
2 mission considers likely to result in  
3 discrimination against a protected  
4 characteristic.

5 (ii) CONSIDERATIONS.—In promul-  
6 gating regulations in accordance with this  
7 subparagraph, the Commission shall con-  
8 sider—

9 (I) established civil rights laws,  
10 common law, and existing relevant  
11 consent decrees;

12 (II) the existing economic models  
13 and technology available in the digital  
14 advertising system;

15 (III) the role of algorithms and  
16 impact assessments; and

17 (IV) the impact of such regula-  
18 tions on small businesses.

19 (C) FORTHRIGHT.—

20 (i) IN GENERAL.—Covered data col-  
21 lection, processing, storage, and disclosure  
22 practices may not be accomplished with  
23 means or for purposes that are deceptive,  
24 including—

1 (I) the use of inconspicuous re-  
2 cording or tracking devices and meth-  
3 ods;

4 (II) the disclosure of covered  
5 data that a reasonable individual be-  
6 lieves to be the content of a private  
7 communication with another party or  
8 parties;

9 (III) notices, interfaces, or other  
10 representations likely to mislead con-  
11 sumers; or

12 (IV) any other practice that the  
13 Commission considers likely to mis-  
14 lead individuals regarding the pur-  
15 poses for and means by which covered  
16 data is collected, processed, stored, or  
17 disclosed.

18 (ii) CONSIDERATIONS.—In promul-  
19 gating regulations in accordance with this  
20 subparagraph, the Commission shall con-  
21 sider—

22 (I) existing relevant consent de-  
23 crees;

24 (II) the reasonable expectations  
25 of consumers;

- 1 (III) research on deceptive prac-  
2 tices;  
3 (IV) the role of deceptive user  
4 interfaces; and  
5 (V) the impact of such regula-  
6 tions on small businesses.

7 (2) REQUIREMENTS FOR OPT-OUT CONSENT.—  
8 Except as provided in subsection (b), require covered  
9 entities to provide individuals with conspicuous ac-  
10 cess to a method that is in easily understandable  
11 language, concise, accurate, clear, to opt out of any  
12 collection, processing, storage, or disclosure of cov-  
13 ered data linked to the individual.

14 (3) REQUIREMENTS FOR AFFIRMATIVE CON-  
15 SENT.—Except as provided in subsection (b), require  
16 covered entities to provide individuals with a notice  
17 that is concise, in easily understandable language,  
18 accurate, clear, timely, and conspicuous to express  
19 affirmative, opt in consent—

20 (A) before the covered entity collects or  
21 discloses sensitive data linked to the individual;  
22 or

23 (B) before the covered entity collects, proc-  
24 esses, stores, or discloses data for purposes  
25 which are outside the context of the relationship

1 of the covered entity with the individual linked  
2 to the data, including—

3 (i) the use of covered data beyond  
4 what is necessary to provide, improve, or  
5 market a good or service that the indi-  
6 vidual requests;

7 (ii) the processing or disclosure of  
8 covered data differs in material ways from  
9 the purposes described in the privacy pol-  
10 icy that was in effect when the data was  
11 collected; or

12 (iii) any other purpose that Commis-  
13 sion considers outside of context.

14 (4) DATA MINIMIZATION REQUIREMENTS.—Ex-  
15 cept as provided in subsection (b), require covered  
16 entities to—

17 (A) take reasonable measures to limit the  
18 collection, processing, storage, and disclosure of  
19 covered data to the amount that is necessary to  
20 carry out the purposes for which the data is col-  
21 lected; and

22 (B) store covered data only as long as is  
23 reasonably necessary to carry out the purposes  
24 for which the data was collected.

1 (b) EXEMPTIONS.—Subsection (a) shall not apply if  
2 the limitations on the collection, processing, storage, or  
3 disclosure of covered data would—

4 (1) inhibit detection or prevention of a security  
5 risk or incident;

6 (2) risk the health, safety, or property of the  
7 covered entity or individual; or

8 (3) prevent compliance with an applicable law  
9 (including regulations) or legal process.

10 **SEC. 5. INDIVIDUAL CONTROL OVER DATA USE.**

11 (a) REGULATIONS.—Not later than 1 year after the  
12 date of the enactment of this Act, the Commission shall  
13 promulgate regulations under section 553 of title 5,  
14 United States Code, to require covered entities to provide  
15 conspicuous, understandable, clear, and free of charge  
16 method to—

17 (1) upon the request of an individual, provide  
18 the individual with access to, or an accurate rep-  
19 resentation of, covered data linked to with the indi-  
20 vidual or the individual’s device stored by the cov-  
21 ered entity;

22 (2) upon the request of an individual, provide  
23 the individual with a means to dispute and resolve  
24 the accuracy or completeness of the covered data

1 linked to the individual or the individual's device  
2 stored by the entity;

3 (3) upon the request of an individual, delete  
4 any covered data that the covered entity stores  
5 linked to the individual or the individual's device;  
6 and

7 (4) when technically feasible, upon the request  
8 of an individual, allow the individual to transmit or  
9 transfer covered data linked to the individual or the  
10 individual's device that is maintained by the entity  
11 to the individual in a format that is standardized  
12 and interoperable.

13 (b) PSEUDONYMOUS DATA.—If the covered data that  
14 an individual has requested processed under subsection (a)  
15 is pseudonymous data, a covered entity may decline the  
16 request if processing the request is not technically feasible.

17 (c) TIMELINESS OF REQUESTS.—In fulfilling any re-  
18 quests made by the individual under subsection (a) the  
19 covered entity shall act in as timely a manner as is reason-  
20 ably possible.

21 (d) ACCESS TO SAME SERVICE.—A covered entity  
22 shall not discriminate against an individual because of any  
23 action the individual took under their rights described in  
24 subsection (a), including—

25 (1) denying goods or services to the individual;

1           (2) charging, or advertising, different prices or  
2 rates for goods or services; or

3           (3) providing different quality of goods or serv-  
4 ices.

5           (e) CONSIDERATION.—The Commission shall allow a  
6 covered entity, by contract, to provide relevant obligations  
7 to the individual under subsection (a) on behalf of a third  
8 party service provider that collects, processes, stores, or  
9 discloses covered data only on behalf of the covered entity.

10 **SEC. 6. INFORMATION SECURITY STANDARDS.**

11           (a) REQUIRED DATA SECURITY PRACTICES.—

12           (1) REGULATIONS.—Not later than 1 year after  
13 the date of enactment of this Act, the Commission  
14 shall promulgate regulations under section 553 of  
15 title 5, United States Code, to require covered enti-  
16 ties to establish and implement policies and proce-  
17 dures regarding information security practices for  
18 the treatment and protection of covered data taking  
19 into consideration—

20                   (A) the level of identifiability of the cov-  
21 ered data and the associated privacy risk;

22                   (B) the sensitivity of the covered data col-  
23 lected, processed, and stored and the associated  
24 privacy risk;



1 (C) the currently available and widely ac-  
2 cepted technological, administrative, and phys-  
3 ical means to protect covered data under the  
4 control of the covered entity;

5 (D) the cost associated with implementing,  
6 maintaining, and regularly reviewing the safe-  
7 guards; and

8 (E) the impact of these requirements on  
9 small- and medium-sized businesses.

10 (2) LIMITATIONS.—In promulgating the regula-  
11 tions required under this section, the Commission  
12 shall consider a covered entity who is in compliance  
13 with existing information security laws that the  
14 Commission determines are sufficiently rigorous to  
15 be in compliance with this section with respect to  
16 particular types of covered data to the extent those  
17 types of covered data are covered by such law, in-  
18 cluding the following:

19 (A) Title V of the Gramm-Leach-Bliley Act  
20 (15 U.S.C. 6801 et seq.).

21 (B) The Health Information Technology  
22 for Economic and Clinical Health Act (42  
23 U.S.C. 17931).

1 (C) The Health Insurance Portability and  
2 Accountability Act of 1996 Security Rule (45  
3 CFR 160.103 and part 164).

4 (D) Any other existing law requiring a cov-  
5 ered entity to implement and maintain informa-  
6 tion security practices and procedures that the  
7 Commission determines to be sufficiently rig-  
8 orous.

9 **SEC. 7. PRIVACY PROTECTION OFFICERS.**

10 (a) APPOINTMENT OF A PRIVACY PROTECTION OFFI-  
11 CER.—Each covered entity with annual revenue in excess  
12 of \$50,000,000 the prior year shall designate at least 1  
13 appropriately qualified employee as a privacy protection  
14 officer who shall—

15 (1) educate employees about compliance re-  
16 quirements;

17 (2) train employees involved in data processing;

18 (3) conduct regular, comprehensive audits to  
19 ensure compliance and make records of the audits  
20 available to enforcement authorities upon request;

21 (4) maintain updated, clear, and understand-  
22 able records of all data security practices undertaken  
23 by the covered entity;

24 (5) serve as the point of contact between the  
25 covered entity and enforcement authorities; and

1           (6) advocate for policies and practices within  
2           the covered entity that promote individual privacy.

3           (b) PROTECTIONS.—The privacy protection officer  
4 shall not be dismissed or otherwise penalized by the cov-  
5 ered entity for performing any of the tasks assigned to  
6 the person under this section.

7 **SEC. 8. RESEARCH INTO PRIVACY ENHANCING TECH-**  
8                                   **NOLOGY.**

9           (a) NATIONAL SCIENCE FOUNDATION SUPPORT OF  
10 RESEARCH ON PRIVACY ENHANCING TECHNOLOGY.—The  
11 Director of the National Science Foundation, in consulta-  
12 tion with other relevant Federal agencies (as determined  
13 by the Director), shall support merit-reviewed and com-  
14 petitively awarded research on privacy enhancing tech-  
15 nologies, which may include—

16           (1) fundamental research on technologies for  
17 de-identification, pseudonymization, anonymization,  
18 or obfuscation of covered data in data sets while  
19 maintaining fairness, accuracy, and efficiency;

20           (2) fundamental research on algorithms and  
21 other similar mathematical tools used to protect in-  
22 dividual privacy when collecting, storing, sharing, or  
23 aggregating data;

1           (3) fundamental research on technologies that  
2           promote data minimization principles in data collec-  
3           tion, sharing, and analytics; and

4           (4) research awards on privacy enhancing tech-  
5           nologies coordinated with other relevant Federal  
6           agencies and programs.

7           (b) INTEGRATION INTO THE COMPUTER AND NET-  
8           WORK SECURITY PROGRAM.—Subparagraph (D) of sec-  
9           tion 4(a)(1) of the Cyber Security Research and Develop-  
10          ment Act (15 U.S.C. 7403(a)(1)(D)) is amended to read  
11          as follows:

12                         “(D) privacy enhancing technologies and  
13                         confidentiality;”.

14          (c) COORDINATION WITH THE NATIONAL INSTITUTE  
15          OF STANDARDS AND TECHNOLOGY AND OTHER STAKE-  
16          HOLDERS.—

17                         (1) IN GENERAL.—The Director of the Office of  
18                         Science and Technology Policy, acting through the  
19                         Networking and Information Technology Research  
20                         and Development Program, shall coordinate with the  
21                         Director of the National Science Foundation, the Di-  
22                         rector of the National Institute of Standards and  
23                         Technology, and the Commission to accelerate the  
24                         development and use of privacy enhancing tech-  
25                         nologies.

1           (2) OUTREACH.—The Director of the National  
2           Institute of Standards and Technology shall conduct  
3           outreach to—

4                   (A) receive input from private, public, and  
5                   academic stakeholders, including the National  
6                   Institutes of Health and the Centers for Dis-  
7                   ease Control and Prevention, for the purpose of  
8                   facilitating public health research, on the devel-  
9                   opment of privacy enhancing technologies; and

10                   (B) develop ongoing public and private sec-  
11                   tor engagement to create and disseminate vol-  
12                   untary, consensus-based resources to increase  
13                   the integration of privacy enhancing tech-  
14                   nologies in data collection, sharing, and ana-  
15                   lytics by the public and private sectors.

16           (d) REPORT ON RESEARCH AND STANDARDS DEVEL-  
17           OPMENT.—Not later than 2 years after the date of enact-  
18           ment of this Act, the Director of the Office of Science and  
19           Technology Policy, acting through the Networking and In-  
20           formation Technology Research and Development Pro-  
21           gram, shall, in coordination with the Director of the Na-  
22           tional Science Foundation and the Director of the Na-  
23           tional Institute of Standards and Technology, submit to  
24           the Committee on Commerce, Science, and Transportation  
25           of the Senate, the Subcommittee on Commerce, Justice,

1 Science, and Related Agencies of the Committee on Appro-  
2 priations of the Senate, the Committee on Science, Space,  
3 and Technology of the House of Representatives, and the  
4 Subcommittee on Commerce, Justice, Science, and Re-  
5 lated Agencies of the Committee on Appropriations of the  
6 House of Representatives, a report containing—

7 (1) the progress of research on privacy enhanc-  
8 ing technologies;

9 (2) the progress of the development of vol-  
10 untary resources described under subsection  
11 (c)(2)(B); and

12 (3) any policy recommendations of the Direc-  
13 tors that could facilitate and improve communication  
14 and coordination between the private sector, the Na-  
15 tional Science Foundation, and relevant Federal  
16 agencies through the implementation of privacy en-  
17 hancing technologies.

18 **SEC. 9. ENFORCEMENT.**

19 (a) ENFORCEMENT BY THE COMMISSION.—

20 (1) IN GENERAL.—This Act and the regulations  
21 prescribed under this Act, other than the provisions  
22 of and amendments made by section 8, shall be en-  
23 forced by the Commission under the Federal Trade  
24 Commission Act (15 U.S.C. 41 et seq.).

1           (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
2           TICES.—A violation of this Act or a regulation pre-  
3           scribed under this Act shall be treated as a violation  
4           of a rule defining an unfair or deceptive act or prac-  
5           tice prescribed under section 18(a)(1)(B) of the Fed-  
6           eral Trade Commission Act (15 U.S.C.  
7           57a(a)(1)(B)).

8           (3) ACTIONS BY THE COMMISSION.—Subject to  
9           paragraph (4), the Commission shall prevent any  
10          person from violating this Act or a regulation pre-  
11          scribed under this Act in the same manner, by the  
12          same means, and with the same jurisdiction, powers,  
13          and duties as though all applicable terms and provi-  
14          sions of the Federal Trade Commission Act (15  
15          U.S.C. 41 et seq.) were incorporated into and made  
16          a part of this Act, and any person who violates this  
17          Act or such regulation shall be subject to the pen-  
18          alties and entitled to the privileges and immunities  
19          provided in the Federal Trade Commission Act (15  
20          U.S.C. 41 et seq.).

21          (4) COMMON CARRIERS.—Notwithstanding sec-  
22          tion 4, 5(a)(2), or 6 of the Federal Trade Commis-  
23          sion Act (15 U.S.C. 44, 45(a)(2), and 46) or any ju-  
24          risdictional limitation of the Commission, the Com-  
25          mission shall also enforce this Act, in the same man-

1 ner provided in paragraphs (1), (2), and (3) with re-  
2 spect to common carriers subject to the Communica-  
3 tions Act of 1934 (47 U.S.C. 151 et seq.) and Acts  
4 amendatory thereof and supplementary thereto.

5 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-  
6 ERAL.—

7 (1) IN GENERAL.—

8 (A) CIVIL ACTIONS.—In any case in which  
9 the attorney general of a State has reason to  
10 believe that an interest of the residents of that  
11 State has been or is threatened or adversely af-  
12 fected by the engagement of any person in a  
13 practice that violates this Act or a regulation  
14 prescribed under this Act, the State, as *parens*  
15 *patriae*, may bring a civil action on behalf of  
16 the residents of the State in a district court of  
17 the United States of appropriate jurisdiction  
18 to—

19 (i) enjoin that practice;

20 (ii) enforce compliance with this Act  
21 or such regulation;

22 (iii) obtain damages, restitution, or  
23 other compensation on behalf of residents  
24 of the State;



1           (iv) impose a civil penalty in an  
2           amount that is not greater than the prod-  
3           uct of the number of individuals whose in-  
4           formation was affected by a violation and  
5           \$40,000; or

6           (v) obtain such other relief as the  
7           court may consider to be appropriate.

8           (B) ADJUSTMENT FOR INFLATION.—Be-  
9           ginning on the date that the Consumer Price  
10          Index is first published by the Bureau of Labor  
11          Statistics that is after 1 year after the date of  
12          enactment of this Act, and each year thereafter,  
13          the amounts specified in subparagraph (A)(iv)  
14          shall be increased by the percentage increase in  
15          the Consumer Price Index published on that  
16          date from the Consumer Price Index published  
17          the previous year.

18          (C) NOTICE.—

19                 (i) IN GENERAL.—Before filing an ac-  
20                 tion under subparagraph (A), the attorney  
21                 general of the State involved shall provide  
22                 to the Commission—

23                         (I) written notice of that action;  
24                         and

1 (II) a copy of the complaint for  
2 that action.

3 (ii) EXEMPTION.—

4 (I) IN GENERAL.—Clause (i)  
5 shall not apply with respect to the fil-  
6 ing of an action by an attorney gen-  
7 eral of a State under this paragraph  
8 if the attorney general determines  
9 that it is not feasible to provide the  
10 notice described in that clause before  
11 the filing of the action.

12 (II) NOTIFICATION.—In an ac-  
13 tion described in subclause (I), the at-  
14 torney general of a State shall provide  
15 notice and a copy of the complaint to  
16 the Commission at the same time as  
17 the attorney general files the action.

18 (c) RIGHTS OF THE COMMISSION.—

19 (1) INTERVENTION BY THE COMMISSION.—The  
20 Commission may intervene in any civil action  
21 brought by the attorney general of a State under  
22 subsection (b) and upon intervening—

23 (A) be heard on all matters arising in the  
24 civil action; and

1 (B) file petitions for appeal of a decision in  
2 the civil action.

3 (2) POWERS.—Nothing in this subsection may  
4 be construed to prevent the attorney general of a  
5 State from exercising the powers conferred on the  
6 attorney general by the laws of the State to conduct  
7 investigations, to administer oaths or affirmations,  
8 or to compel the attendance of witnesses or the pro-  
9 duction of documentary or other evidence.

10 (3) ACTION BY THE COMMISSION.—If the Com-  
11 mission institutes a civil action for violation of this  
12 title or a regulation promulgated under this title, no  
13 attorney general of a State may bring a civil action  
14 under subsection (b) against any defendant named  
15 in the complaint of the Commission for violation of  
16 this Act or a regulation promulgated under this Act  
17 that is alleged in the complaint.

18 (d) VENUE AND SERVICE OF PROCESS.—

19 (1) VENUE.—Any action brought under sub-  
20 section (b) may be brought in—

21 (A) the district court of the United States  
22 that meets applicable requirements relating to  
23 venue under section 1391 of title 28, United  
24 States Code; or

1 (B) another court of competent jurisdic-  
2 tion.

3 (2) SERVICE OF PROCESS.—In an action  
4 brought under subsection (b), process may be served  
5 in any district in which the defendant—

6 (A) is an inhabitant; or

7 (B) may be found.

8 (e) ACTION OF OTHER STATE OFFICIALS.—

9 (1) IN GENERAL.—In addition to civil actions  
10 brought by attorneys general under subsection (b),  
11 any other officer of a State who is authorized by the  
12 State to do so may bring a civil action under sub-  
13 section (b), subject to the same requirements and  
14 limitations that apply under this subsection to civil  
15 actions brought by attorneys general.

16 (2) SAVINGS PROVISION.—Nothing in this sub-  
17 section may be construed to prohibit an authorized  
18 official of a State from initiating or continuing any  
19 proceeding in a court of the State for a violation of  
20 any civil or criminal law of the State.

21 (f) PRESERVATION OF AUTHORITY.—Nothing in this  
22 Act shall be construed to limit the authority of the Federal  
23 Trade Commission under any other provision of law.

1 **SEC. 10. ADDITIONAL ENFORCEMENT RESOURCES.**

2 (a) IN GENERAL.—Notwithstanding any other provi-  
3 sion of law the Commission may, without regard to the  
4 civil service laws (including regulations), appoint not more  
5 than 300 additional personnel for the purposes of enforc-  
6 ing privacy and data security laws and regulations.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
8 authorized to be appropriated to the Commission such  
9 sums as may be necessary to carry out this section.

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