

ASSEMBLY, No. 1527

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Requires Internet service providers to keep confidential and prohibit any disclosure, sale, or unauthorized access to subscriber's personally identifiable information unless subscriber authorizes Internet service provider in writing to disclose information.

CURRENT VERSION OF TEXT

As reported by the Assembly Science, Innovation and Technology Committee with technical review.

(Sponsorship Updated As Of: 11/27/2018)

1 AN ACT concerning Internet service providers and personally
2 identifiable information and supplementing P.L.1960, c.39
3 (C.56:8-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Internet protocol” means a communications protocol that
11 enables an Internet end user to send or receive a communication
12 over the Internet, regardless of whether the communication is voice,
13 data, or video.

14 “Internet service provider” means a person, business, or
15 organization qualified to do business in this State that provides
16 individuals, businesses, or other entities with the ability to connect
17 by wireline, cellular, or other wireless telecommunications
18 infrastructure to the Internet using any technology through
19 equipment that is located in this State.

20 “Online service” means an information service provided over the
21 Internet, including, but not limited to, offsite data storage services
22 and computer application services.

23 “Ordinary course of business” means debt-collection activities,
24 order fulfillment, request processing, the transfer of ownership, and
25 advertising services to the subscriber by the Internet service
26 provider.

27 “Personally identifiable information” means any information that
28 personally identifies, describes, or is able to be associated with a
29 subscriber or users of a subscriber’s account, including, but not
30 limited to:

31 name, address, precise geolocation, social security number, or
32 telephone number;

33 requests for specific materials or services from an Internet
34 service provider;

35 Internet protocol addresses or information concerning the access
36 or use of online services;

37 information identifying a device that is used primarily or
38 exclusively by the subscriber or users of the subscriber’s account;

39 financial or billing information;

40 demographic data;

41 medical information;

42 Internet browser cache or history;

43 the contents of a subscriber’s communications or data-storage
44 devices; or

45 any information pertaining to children.

46 “Subscriber” means a residential or business subscriber located
47 in this State that subscribes with an Internet service provider to
48 receive access to the Internet on equipment located in the State.

1 2. a. An Internet service provider shall keep confidential and
2 prohibit any disclosure, sale, or unauthorized access of a
3 subscriber's personally identifiable information unless the
4 subscriber, expressly and in writing, authorizes the Internet service
5 provider to disclose this information, which the subscriber may
6 revoke, in writing, at any time.

7 b. An Internet service provider shall provide written notice of
8 the requirements of this section to each subscriber when the
9 subscriber applies with the Internet service provider for service and
10 when the subscriber renews a contract for service. The written
11 notice shall be in a 12-point, boldface font on a form separate from
12 the contract for service, as determined by the Director of the
13 Division of Consumer Affairs in the Department of Law and Public
14 Safety, and electronic notice shall be made available to the public
15 on the Internet service provider's Internet website.

16 c. An Internet service provider shall not refuse to provide
17 Internet service or add a supplemental charge or penalize a
18 subscriber either financially or in quality or speed of delivery of
19 service for choosing not to authorize the disclosure of personally
20 identifiable information.

21 d. The requirements of subsection a. of this section shall not
22 apply to:

23 (1) disclosures incidental to the ordinary course of business of
24 the Internet service provider;

25 (2) compliance with a court order;

26 (3) protecting the rights and property of the Internet service
27 provider, or to protect subscribers, users of the subscriber's
28 account, and other Internet service providers from fraudulent,
29 abusive, or unlawful use of Internet service;

30 (4) providing location information to a public safety answering
31 point, emergency medical service providers, police or other
32 emergency responders in order to respond to a call for emergency
33 services;

34 (5) informing a legal guardian or immediate family member of
35 the location of a user of the subscriber's account who is under the
36 age of 18 in an emergency situation that involves the risk of death
37 or serious physical harm; and

38 (6) investigations undertaken pursuant to the "New Jersey
39 Wiretapping and Electronic Surveillance Control Act,"
40 P.L.1968, c. 409 (C.2A:156A-1 et seq.).

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42 3. A waiver of the requirements of, or an agreement that does
43 not comply with, the provisions of P.L. , c. (C.) (pending
44 before the Legislature as this bill) shall be void and unenforceable.

45

46 4. It shall be an unlawful practice and violation of P.L.1960,
47 c.39 (C.56:8-1 et seq.) to violate section 2 of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

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- 1 5. The Director of the Division of Consumer Affairs in the
2 Department of Law and Public Safety shall promulgate rules and
3 regulations, pursuant to the “Administrative Procedure Act,”
4 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
5 purposes of P.L. , c. (C.) (pending before the Legislature as
6 this bill).
7
8 6. This act shall take effect immediately.