

# SENATE, No. 2834

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JULY 23, 2018

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Senator Greenstein**

**SYNOPSIS**

Requires commercial Internet websites and online services to notify customers of collection and disclosure of personally identifiable information and allows customers to opt out.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/18/2019)**

1 AN ACT concerning commercial Internet websites, online services,  
2 and personally identifiable information and supplementing  
3 P.L.1960, c.39 (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 “Commercial Internet website” means a website operated for  
11 business purposes, including, but not limited to, the sale of goods  
12 and services.

13 “Customer” means an individual within this State who provides,  
14 either knowingly or unknowingly, personally identifiable  
15 information to an operator, with or without an exchange of  
16 consideration, in the course of purchasing, viewing, accessing,  
17 renting, leasing, or otherwise using real or personal property, or any  
18 interest therein, or obtaining a product or service from the operator,  
19 including advertising or any other content.

20 “Designated request address” means an electronic mail address  
21 or toll-free telephone number that a customer may use to request the  
22 information required to be provided pursuant to section 3 of P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill).

24 “Disclose” means to release, transfer, share, disseminate, make  
25 available, or otherwise communicate orally, in writing, or by  
26 electronic or any other means to a third party a customer’s  
27 personally identifiable information. “Disclose” shall not include:

28 the disclosure of a customer’s personally identifiable information  
29 by an operator to a third party under a written contract authorizing  
30 the third party to use the personally identifiable information to  
31 perform services on behalf of the operator, including maintaining or  
32 servicing accounts, providing customer service, processing or  
33 fulfilling orders and transactions, verifying customer information,  
34 processing payments, providing financing, or similar services, but  
35 only if the contract prohibits the third party from using the  
36 personally identifiable information for any reason other than  
37 performing the specified service on behalf of the operator and from  
38 disclosing personally identifiable information to additional third  
39 parties;

40 the disclosure of personally identifiable information by an  
41 operator to a third party based on a good-faith belief that disclosure  
42 is required to comply with applicable law, regulation, legal process,  
43 or court order; or

44 the disclosure of personally identifiable information by an  
45 operator to a third party that is reasonably necessary to address  
46 fraud, security, or technical issues, to protect the operator’s rights  
47 or property, or to protect a customer or the public from illegal  
48 activities as required by law.

1 “Internet Protocol” means a communications protocol that  
2 enables an Internet end user to send or receive a communication  
3 over the Internet, regardless of whether the communication is voice,  
4 data, or video.

5 “Online service” means a commercial information service  
6 provided over the Internet, including, but not limited to, offsite data  
7 storage services and computer application services.

8 “Operator” means a person or entity that owns an Internet  
9 website or an online service that collects and maintains personally  
10 identifiable information from a customer and that is operated for  
11 commercial purposes. “Operator” shall not include any third party  
12 that operates, hosts, or manages, but does not own, a website or  
13 online service on the operator’s behalf, or by processing  
14 information on behalf of the operator.

15 “Personally identifiable information” means any information that  
16 personally identifies, describes, or is able to be associated with a  
17 customer of a commercial Internet website or online service,  
18 including, but not limited to:

- 19 name, alias, nickname, and user name;
- 20 postal and electronic mail address;
- 21 telephone number;
- 22 account name;
- 23 social security number or other government-issued identification  
24 number, including driver’s license number or passport number;
- 25 birthdate or age;
- 26 physical characteristic information, including height and weight;
- 27 sexual information, including sexual orientation, sex, gender  
28 status, gender identity, and gender expression;
- 29 race or ethnicity;
- 30 religious affiliation or activity;
- 31 political affiliation or activity;
- 32 professional or employment-related information;
- 33 educational information;
- 34 medical information, including, but not limited to, medical  
35 conditions or drugs, therapies, mental health, or medical products or  
36 equipment used;
- 37 financial information, including, but not limited to, credit, debit,  
38 or account numbers, account balances, payment history, or  
39 information related to assets, liabilities, or general creditworthiness;
- 40 commercial information, including, but not limited to, records of  
41 property, products, or services provided, obtained or considered, or  
42 other purchasing or consumer histories;
- 43 geolocation information;
- 44 Internet or mobile activity information, including, but not limited  
45 to, Internet Protocol addresses or information concerning the access  
46 or use of any online service;
- 47 content, including, but not limited to, text, photographs, audio or  
48 video recordings, or other material generated by or provided by the  
49 customer; and

1 any of the above categories of information as they pertain to the  
2 children of the customer.

3 “Third party” means:

4 a private entity that is a separate legal entity from the operator;

5 a private entity that does not share common ownership or  
6 common corporate control with the operator; or

7 a private entity that does not share a brand name or common  
8 branding with the operator, such as an affiliate relationship that is  
9 clear to the customer.

10

11 2. a. An operator that collects the personally identifiable  
12 information of a customer through the Internet shall provide on its  
13 Internet website or online service notification to a customer that  
14 shall include, but not be limited to:

15 (1) a complete description of the personally identifiable  
16 information that the operator collects through the Internet website  
17 or online service about a customer who uses or visits the operator’s  
18 commercial Internet website or online service;

19 (2) all third parties with which the operator may disclose a  
20 customer’s personally identifiable information; and

21 (3) information concerning one or more designated request  
22 addresses.

23 b. In addition to the requirements of subsection a. of this  
24 section, an operator shall include the notification as a section of the  
25 operator’s privacy policy.

26

27 3. a. An operator that discloses a customer’s personally  
28 identifiable information to a third party shall make the following  
29 information available to the customer free of charge upon receipt of  
30 a request from the customer for this information through a  
31 designated request address:

32 (1) the customer’s personally identifiable information that was  
33 disclosed; and

34 (2) the names of, and the contact information for, the third  
35 parties that received the customer’s personally identifiable  
36 information.

37 b. An operator that receives a request from a customer pursuant  
38 to this section shall provide a response to the customer within 30  
39 days of the operator’s receipt of the request and shall provide the  
40 information for all disclosures of personally identifiable  
41 information that occurred in the prior 12 months.

42 c. This section shall not apply to personally identifiable  
43 information disclosed prior to the effective date of P.L. , c.  
44 (C. ) (pending before the Legislature as this bill).

45

46 4. a. An operator that collects the personally identifiable  
47 information of a customer through the Internet shall clearly and  
48 conspicuously post on its Internet website or online service  
49 homepage a link, entitled “Do Not Sell My Personal Information,”  
50 to an Internet webpage maintained by the operator, which enables a

1 customer to opt out of the disclosure of the customer's personally  
2 identifiable information. The method in which a customer may opt  
3 out shall be in a form and manner determined by the operator but a  
4 customer shall not be required to establish an account with the  
5 operator in order to opt out of the disclosure of a customer's  
6 personally identifiable information.

7 b. An operator shall be prohibited from discriminating against  
8 or penalizing a customer if the customer chooses to opt out of the  
9 disclosure of the customer's personally identifiable information  
10 pursuant to subsection a. this section.

11 c. An operator shall be prohibited from requesting that a  
12 customer authorize the disclosure of the customer's personally  
13 identifiable information for at least 12 months following the date  
14 the customer opted out pursuant to subsection a. of this section.

15

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

19

20 6. Nothing in P.L. , c. (C. ) (pending before the  
21 Legislature as this bill) shall be construed to apply to any State  
22 agency, any political subdivision thereof, or federal agency, or any  
23 contractor or subcontractor employed by a State agency, political  
24 subdivision thereof, or federal agency.

25

26 7. It shall be an unlawful practice and violation of P.L.1960,  
27 c.39 (C.56:8-1 et seq.) for an operator to fail to notify a customer of  
28 the disclosure of personally identifiable information pursuant to  
29 sections 2 and 3 of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill) or fail to allow a customer to opt out of the  
31 disclosure of a customer's personally identifiable information  
32 pursuant to section 4 of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill).

34

35 8. The Director of the Division of Consumer Affairs in the  
36 Department of Law and Public Safety shall promulgate rules and  
37 regulations, pursuant to the "Administrative Procedure Act,"  
38 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the  
39 purposes of P.L. , c. (C. ) (pending before the Legislature as  
40 this bill).

41

42 9. This act shall take effect immediately.

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STATEMENT

46

47 This bill requires commercial Internet website and online service  
48 operators to notify customers of the collection and disclosure of

1 personally identifiable information to third parties. An operator that  
2 collects through the Internet the personally identifiable information  
3 of a customer is to provide on its Internet website or online service  
4 notification to a customer that includes, but is not limited to: a  
5 complete description of the personally identifiable information that  
6 the operator collects through the Internet website or online service  
7 about a customer who uses or visits its commercial Internet website  
8 or online service; all third parties with which the operator may  
9 disclose a customer's personally identifiable information; and  
10 information concerning one or more designated request addresses,  
11 which are an email address or toll-free telephone number that a  
12 customer may use to request information under the bill.

13 This bill requires that an operator that discloses a customer's  
14 personally identifiable information to a third party is to make the  
15 following information available to the customer free of charge upon  
16 receipt of a request from the customer: the customer's personally  
17 identifiable information that was disclosed and the names and  
18 contact information of the third parties that received the customer's  
19 personally identifiable information. An operator that receives a  
20 request from a customer is to provide a response to the customer  
21 within 30 days and is to provide the information for all disclosures  
22 of personally identifiable information that occurred in the prior 12  
23 months.

24 The bill requires an operator that collects the personally  
25 identifiable information of a customer to clearly and conspicuously  
26 post on its Internet website or online service homepage a link,  
27 entitled "Do Not Sell My Personal Information," to an Internet  
28 webpage maintained by the operator, which enables a customer to  
29 opt out of the disclosure of the customer's personally identifiable  
30 information. The method in which a customer may opt out is to be  
31 in a form and manner determined by the operator but a customer is  
32 not to be required to establish an account with the operator in order  
33 to opt out of the disclosure of a customer's personally identifiable  
34 information.

35 Further, this bill prohibits an operator from discriminating  
36 against or penalizing a customer if the customer chooses to opt out  
37 of the disclosure of the customer's personally identifiable  
38 information and is prohibited from requesting that a customer  
39 authorize the disclosure of the customer's personally identifiable  
40 information for at least 12 months following the date the customer  
41 opted out.

42 This bill defines "personally identifiable information" as any  
43 information that personally identifies, describes, or is able to be  
44 associated with a customer of a commercial Internet website or  
45 online service, including, but not limited to several examples that  
46 are listed in the bill.