

ASSEMBLY, No. 558

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ROBERT AUTH

District 39 (Bergen and Passaic)

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District 34 (Essex and Passaic)

SYNOPSIS

Requires Internet service providers to keep confidential subscriber's personally identifiable information unless subscriber authorizes Internet service provider in writing to disclose information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/13/2020)

1 AN ACT concerning Internet service providers and personally
2 identifiable information and supplementing P.L.1960,
3 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 “Internet service provider” means a person, business, or
11 organization qualified to do business in this State that provides
12 individuals, businesses, or other entities with the ability to connect
13 by wireline or radio frequency to the Internet through equipment
14 that is located in this State.

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

18 “Personally identifiable information” means any information that
19 personally identifies, describes, or is able to be associated with a
20 subscriber or users of a subscriber’s account, including, but not
21 limited to:

22 name, address, precise geolocation, social security number, or
23 telephone number;

24 requests for specific materials or services from an Internet
25 service provider;

26 online service use history;

27 Internet websites visited during use of a subscriber’s account; or

28 the contents of a subscriber’s communications or data-storage
29 devices.

30 “Ordinary course of business” means debt-collection activities,
31 order fulfillment, request processing, or the transfer of ownership.

32 “Subscriber” means a residential or business subscriber located
33 in this State that subscribes with an Internet service provider to
34 receive access to the Internet on equipment located in the State.
35

36 2. a. An Internet service provider shall keep confidential a
37 subscriber’s personally identifiable information unless the
38 subscriber, expressly and in writing, authorizes the Internet service
39 provider to disclose this information.

40 b. An Internet service provider shall provide written notice of
41 the requirements of this section to each subscriber.

42 c. An Internet service provider shall not refuse to provide
43 Internet service to a subscriber for not authorizing the Internet
44 service provider to disclose a subscriber’s personally identifiable
45 information.

46 d. The requirements of subsection a. of this section shall not
47 apply to disclosures incidental to the ordinary course of business of
48 the Internet service provider or investigations undertaken pursuant

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

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

7
8 4. It shall be an unlawful practice and violation of P.L.1960,
9 c.39 (C.56:8-1 et seq.) to violate section 2 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11
12 5. The Director of the Division of Consumer Affairs in the
13 Department of Law and Public Safety shall promulgate rules and
14 regulations, pursuant to the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the
16 purposes of P.L. , c. (C.) (pending before the Legislature as
17 this bill).

18
19 6. This act shall take effect immediately.

20 21 22 STATEMENT

23
24 This bill requires an Internet service provider (ISP) to keep
25 confidential a subscriber's personally identifiable information
26 unless the subscriber, expressly and in writing, authorizes the ISP to
27 disclose this information. An ISP is required to provide written
28 notice of this bill's requirements to each subscriber. An ISP is not
29 to refuse to provide Internet service to a subscriber for not
30 authorizing the ISP to disclose the subscriber's personally
31 identifiable information. The provisions of this bill do not apply to
32 disclosures incidental to the ISP's ordinary course of business or to
33 investigations undertaken pursuant to the "New Jersey Wiretapping
34 and Electronic Surveillance Control Act."

35 This bill provides that a violation of this bill is to be an unlawful
36 practice in accordance with the State's Consumer Fraud Act.

37 In this bill, "personally identifiable information" means any
38 information that personally identifies, describes, or is able to be
39 associated with a subscriber or users of a subscriber's account,
40 including, but not limited to: name, address, precise geolocation,
41 social security number, or telephone number; requests for specific
42 materials or services from an Internet service provider; online
43 service use history; Internet websites visited during use of a
44 subscriber's account; or the contents of a subscriber's
45 communications or data-storage devices.

46 This bill also provides that "subscriber" means a residential or
47 business subscriber located in this State that subscribes with an
48 Internet service provider to receive access to the Internet on
49 equipment located in the State.