

REFERENCE TITLE: **personal data; consumers; controllers; requirements**

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1815

Introduced by
Senator Kuby

AN ACT

AMENDING TITLE 44, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 27; RELATING TO CONSUMER DATA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, chapter 9, Arizona Revised Statutes, is
3 amended by adding article 27, to read:

4 ARTICLE 27. CONSUMER DATA

5 44-1383. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "AFFILIATE" MEANS A LEGAL ENTITY THAT CONTROLS, IS CONTROLLED BY
8 OR IS UNDER COMMON CONTROL WITH ANOTHER LEGAL ENTITY OR THAT SHARES COMMON
9 BRANDING WITH ANOTHER LEGAL ENTITY. FOR THE PURPOSES OF THIS PARAGRAPH,
10 "CONTROL" OR "CONTROLLED" INCLUDES ANY OF THE FOLLOWING:

11 (a) THE OWNERSHIP OF, OR POWER TO VOTE, MORE THAN FIFTY PERCENT OF
12 THE OUTSTANDING SHARES OF ANY CLASS OF VOTING SECURITY OF A COMPANY.

13 (b) THE CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY OF
14 THE DIRECTORS OR OF AN INDIVIDUAL WHO EXERCISES A SIMILAR FUNCTION.

15 (c) THE POWER TO EXERCISE CONTROLLING INFLUENCE OVER THE MANAGEMENT
16 OF A COMPANY.

17 2. "ARTIFICIAL INTELLIGENCE SYSTEM":

18 (a) MEANS ANY MACHINE-BASED SYSTEM THAT, FOR ANY EXPLICIT OR
19 IMPLICIT OBJECTIVE, INFERS FROM THE INPUTS THE SYSTEM RECEIVES HOW TO
20 GENERATE OUTPUTS.

21 (b) INCLUDES CONTENT, DECISIONS, PREDICTIONS OR RECOMMENDATIONS
22 THAT CAN INFLUENCE PHYSICAL OR VIRTUAL ENVIRONMENTS.

23 3. "AUTHENTICATE" MEANS TO VERIFY THROUGH REASONABLE MEANS THAT THE
24 CONSUMER WHO IS AUTHORIZED TO FILE A CONSUMER REQUEST UNDER SECTION
25 44-1383.01 IS THE SAME CONSUMER WITH RESPECT TO THE PERSONAL DATA.

26 4. "BIOMETRIC DATA":

27 (a) MEANS DATA GENERATED BY AUTOMATIC MEASUREMENTS OF AN
28 INDIVIDUAL'S BIOLOGICAL CHARACTERISTICS.

29 (b) INCLUDES ANY OF THE FOLLOWING:

30 (i) A FINGERPRINT.

31 (ii) A VOICEPRINT.

32 (iii) AN EYE RETINAL OR IRIS SCAN.

33 (iv) ANY OTHER UNIQUE BIOLOGICAL PATTERN OR CHARACTERISTIC THAT IS
34 USED TO IDENTIFY A SPECIFIC INDIVIDUAL.

35 (c) DOES NOT INCLUDE ANY OF THE FOLLOWING:

36 (i) A PHYSICAL OR DIGITAL PHOTOGRAPH OR DATA GENERATED FROM A
37 PHYSICAL OR DIGITAL PHOTOGRAPH.

38 (ii) A VIDEO OR AUDIO RECORDING OR DATA GENERATED FROM A VIDEO OR
39 AUDIO RECORDING.

40 (iii) ANY INFORMATION COLLECTED RELATED TO HEALTH CARE TREATMENT OR
41 PAYMENT PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
42 ACT OF 1996 (P.L. 104-191; 110 STAT. 1936).

43 5. "CHILD" MEANS AN INDIVIDUAL WHO IS UNDER SIXTEEN YEARS OF AGE.

- 1 6. "CONSUMER":
2 (a) MEANS AN INDIVIDUAL WHO RESIDES IN THIS STATE.
3 (b) DOES NOT INCLUDE AN INDIVIDUAL WHO IS ACTING ON BEHALF OF A
4 BUSINESS OR AS AN EMPLOYEE.
5 7. "CONSUMER CONSENT":
6 (a) MEANS A CLEAR, AFFIRMATIVE ACT THAT SIGNIFIES A CONSUMER'S
7 FREELY GIVEN, SPECIFIC, INFORMED AND UNAMBIGUOUS AGREEMENT TO PROCESS
8 PERSONAL DATA THAT RELATES TO THE CONSUMER.
9 (b) INCLUDES A WRITTEN OR ELECTRONIC STATEMENT.
10 (c) DOES NOT INCLUDE:
11 (i) ACCEPTANCE OF GENERAL OR BROAD TERMS OR AN ACCEPTANCE OF A
12 DOCUMENT THAT USES GENERAL OR BROAD TERMS AND THAT CONTAINS DESCRIPTIONS
13 OF PERSONAL DATA PROCESSING ALONG WITH OTHER UNRELATED INFORMATION.
14 (ii) ACCEPTANCE BY HOVERING OVER, MUTING, PAUSING OR CLOSING A
15 GIVEN PIECE OF CONTENT.
16 (iii) AN AGREEMENT THAT WAS OBTAINED THROUGH THE USE OF DARK
17 PATTERNS.
18 8. "CONTROLLER" MEANS AN INDIVIDUAL OR PERSON THAT INDIVIDUALLY OR
19 IN CONCERT WITH OTHER INDIVIDUALS OR PERSONS DETERMINES THE PURPOSE AND
20 MEANS OF PROCESSING PERSONAL DATA.
21 9. "DARK PATTERNS":
22 (a) MEANS A USER INTERFACE DESIGNED OR MANIPULATED WITH THE EFFECT
23 OF SUBSTANTIALLY SUBVERTING OR IMPAIRING USER AUTONOMY, DECISION-MAKING OR
24 CHOICE.
25 (b) INCLUDES DIGITAL DESIGN CHOICES THAT:
26 (i) MAKE IT DIFFICULT FOR A CONSUMER TO OPT OUT.
27 (ii) MANIPULATE OR TRICK A CONSUMER INTO ACTIONS THAT A CONSUMER
28 WOULD OTHERWISE NOT TAKE.
29 (iii) COERCE A CONSUMER TO GIVE UP DATA PRIVACY.
30 10. "DEIDENTIFIED DATA" MEANS DATA THAT CANNOT REASONABLY BE LINKED
31 TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL OR A DEVICE LINKED TO THAT
32 INDIVIDUAL.
33 11. "HEALTH CARE PROVIDER" HAS THE MEANING PRESCRIBED BY THE HEALTH
34 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (42 UNITED STATES
35 CODE SEC 1320D).
36 12. "HEALTH RECORD":
37 (a) MEANS ANY WRITTEN, PRINTED OR ELECTRONICALLY RECORDED MATERIAL
38 MAINTAINED BY A HEALTH CARE PROVIDER IN THE COURSE OF PROVIDING HEALTH
39 CARE SERVICES TO AN INDIVIDUAL THAT CONCERNS THE INDIVIDUAL AND THE
40 SERVICES PROVIDED.
41 (b) INCLUDES EITHER OF THE FOLLOWING:
42 (i) THE SUBSTANCE OF ANY COMMUNICATION MADE BY AN INDIVIDUAL TO A
43 HEALTH CARE PROVIDER IN CONFIDENCE DURING OR IN CONNECTION WITH THE
44 PROVISION OF HEALTH CARE SERVICES.

1 (ii) INFORMATION OTHERWISE ACQUIRED BY A HEALTH CARE PROVIDER ABOUT
2 AN INDIVIDUAL IN CONFIDENCE AND IN CONNECTION WITH HEALTH CARE SERVICES
3 PROVIDED TO THE INDIVIDUAL.

4 13. "IDENTIFIED OR IDENTIFIABLE INDIVIDUAL" MEANS A CONSUMER WHO
5 CAN BE READILY IDENTIFIED, DIRECTLY OR INDIRECTLY.

6 14. "INSTITUTION OF HIGHER EDUCATION" MEANS A COMMUNITY COLLEGE AS
7 DEFINED IN SECTION 15-1401 OR A UNIVERSITY UNDER THE JURISDICTION OF THE
8 ARIZONA BOARD OF REGENTS.

9 15. "KNOWN CHILD" MEANS A CHILD UNDER CIRCUMSTANCES IN WHICH A
10 CONTROLLER HAS KNOWLEDGE OF THE CHILD'S AGE AND WILFULLY DISREGARDS THE
11 CHILD'S AGE.

12 16. "PERSONAL DATA":

13 (a) MEANS ANY INFORMATION, INCLUDING SENSITIVE DATA, THAT IS LINKED
14 OR REASONABLY LINKABLE TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL.

15 (b) INCLUDES PSEUDONYMOUS DATA WHEN THE DATA IS USED BY A
16 CONTROLLER OR PROCESSOR IN CONJUNCTION WITH ADDITIONAL INFORMATION THAT
17 REASONABLY LINKS THE DATA TO IDENTIFIED DATA OR PUBLICLY AVAILABLE
18 INFORMATION OR DATA.

19 17. "PRECISE GEOLOCATION DATA":

20 (a) MEANS INFORMATION DERIVED FROM TECHNOLOGY THAT INCLUDES
21 LATITUDE AND LONGITUDE COORDINATES OR OTHER MECHANISMS AND THAT DIRECTLY
22 IDENTIFIES A SPECIFIC LOCATION OF AN INDIVIDUAL WITHIN A RADIUS OF ONE
23 THOUSAND SEVEN HUNDRED FIFTY FEET.

24 (b) DOES NOT INCLUDE THE CONTENT OF COMMUNICATIONS OR ANY DATA
25 GENERATED BY OR CONNECTED TO AN ADVANCED UTILITY METERING INFRASTRUCTURE
26 SYSTEM OR EQUIPMENT USED BY A UTILITY.

27 18. "PROCESS" OR "PROCESSING" MEANS AN OPERATION OR SET OF
28 OPERATIONS PERFORMED EITHER MANUALLY OR BY AUTOMATED MEANS ON PERSONAL
29 DATA FOR THE COLLECTION, USE, STORAGE, DISCLOSURE, ANALYSIS, DELETION OR
30 MODIFICATION OF PERSONAL DATA.

31 19. "PROCESSOR" MEANS A PERSON THAT PROCESSES PERSONAL DATA ON
32 BEHALF OF A CONTROLLER.

33 20. "PROFILING" MEANS PROCESSING PERSONAL DATA TO EVALUATE, ANALYZE
34 OR PREDICT PERSONAL ASPECTS THAT ARE RELATED TO AN IDENTIFIED OR
35 IDENTIFIABLE INDIVIDUAL'S ECONOMIC SITUATION, HEALTH, PERSONAL
36 PREFERENCES, INTERESTS, RELIABILITY, BEHAVIOR, LOCATION OR MOVEMENTS.

37 21. "PROTECTED HEALTH INFORMATION" HAS THE MEANING PRESCRIBED BY
38 THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (42 UNITED
39 STATES CODE SEC 1320D).

40 22. "PSEUDONYMOUS DATA" MEANS ANY INFORMATION THAT CANNOT BE
41 ATTRIBUTED TO A SPECIFIC INDIVIDUAL WITHOUT THE USE OF ADDITIONAL
42 INFORMATION, PROVIDED THAT THE ADDITIONAL INFORMATION IS KEPT SEPARATELY
43 AND IS SUBJECT TO APPROPRIATE TECHNICAL AND ORGANIZATIONAL MEASURES TO
44 ENSURE THAT THE PERSONAL DATA IS NOT ATTRIBUTED TO AN IDENTIFIED OR
45 IDENTIFIABLE INDIVIDUAL.

- 1 23. "PUBLICLY AVAILABLE INFORMATION":
2 (a) MEANS ANY INFORMATION THAT A BUSINESS HAS A REASONABLE BASIS TO
3 BELIEVE WAS LAWFULLY MADE AVAILABLE TO THE PUBLIC THROUGH WIDELY
4 DISTRIBUTED MEDIA BY A CONSUMER OR BY A PERSON TO WHOM THE CONSUMER HAS
5 DISCLOSED THE INFORMATION UNLESS THE CONSUMER HAS RESTRICTED THE
6 INFORMATION TO A SPECIFIC AUDIENCE.
7 (b) INCLUDES PUBLIC RECORDS AS DEFINED IN SECTION 41-161.
8 24. "SALE OF PERSONAL DATA":
9 (a) MEANS SHARING, DISCLOSING OR TRANSFERRING PERSONAL DATA FOR
10 MONETARY OR OTHER VALUABLE CONSIDERATION BY A CONTROLLER TO A THIRD PARTY.
11 (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:
12 (i) THE DISCLOSURE OF PERSONAL DATA TO A PROCESSOR THAT PROCESSES
13 PERSONAL DATA ON THE CONTROLLER'S BEHALF.
14 (ii) THE DISCLOSURE OF PERSONAL DATA TO A THIRD PARTY TO PROVIDE A
15 PRODUCT OR SERVICE THAT WAS REQUESTED BY A CONSUMER.
16 (iii) THE DISCLOSURE OF INFORMATION THAT THE CONSUMER INTENTIONALLY
17 MADE AVAILABLE TO THE GENERAL PUBLIC THROUGH A MASS MEDIA CHANNEL AND THAT
18 THE CONSUMER DID NOT RESTRICT TO A SPECIFIC AUDIENCE.
19 (iv) THE DISCLOSURE OR TRANSFER OF PERSONAL DATA TO A THIRD PARTY
20 AS AN ASSET THAT IS PART OF A MERGER OR ACQUISITION.
21 25. "SENSITIVE DATA":
22 (a) MEANS A CATEGORY OF PERSONAL DATA.
23 (b) INCLUDES ANY OF THE FOLLOWING:
24 (i) PERSONAL DATA THAT REVEALS AN INDIVIDUAL'S RACE OR ETHNIC
25 ORIGIN, RELIGION, MENTAL OR PHYSICAL HEALTH STATUS, GENDER OR CITIZENSHIP
26 OR IMMIGRATION STATUS.
27 (ii) GENETIC OR BIOMETRIC DATA THAT IS PROCESSED FOR THE PURPOSE OF
28 UNIQUELY IDENTIFYING AN INDIVIDUAL.
29 (iii) PERSONAL DATA COLLECTED FROM A KNOWN CHILD.
30 (iv) PRECISE GEOLOCATION DATA.
31 26. "TARGETED ADVERTISING":
32 (a) MEANS DISPLAYING AN ADVERTISEMENT TO A CONSUMER BASED ON
33 PERSONAL DATA OBTAINED FROM THE CONSUMER'S ACTIVITIES ACROSS NONAFFILIATED
34 WEBSITES OR ONLINE APPLICATIONS TO PREDICT A CONSUMER'S PREFERENCES OR
35 INTERESTS.
36 (b) DOES NOT INCLUDE AN ADVERTISEMENT THAT:
37 (i) IS BASED ON ACTIVITIES WITHIN A CONTROLLER'S OWN WEBSITES OR
38 ONLINE APPLICATIONS.
39 (ii) IS BASED ON THE CONTEXT OF A CONSUMER'S CURRENT SEARCH QUERY,
40 VISIT TO A WEBSITE OR ONLINE APPLICATION.
41 (iii) IS DIRECTED TO A CONSUMER IN RESPONSE TO THE CONSUMER'S
42 REQUEST FOR INFORMATION OR FEEDBACK.
43 (iv) IS BASED ON THE PROCESSING OF PERSONAL DATA SOLELY FOR
44 MEASURING OR REPORTING ADVERTISING PERFORMANCE, REACH OR FREQUENCY.

1 THE TIME EXTENSION WITHIN THE INITIAL FORTY-FIVE-DAY RESPONSE PERIOD AND
2 THE REASON FOR THE EXTENSION.

3 E. IF A CONTROLLER DECLINES TO TAKE ACTION REGARDING THE CONSUMER'S
4 REQUEST, THE CONTROLLER SHALL INFORM THE CONSUMER WITHOUT UNDUE DELAY AND
5 NOT LATER THAN FORTY-FIVE DAYS AFTER RECEIVING THE CONSUMER REQUEST OF THE
6 REASONS FOR DECLINING TO TAKE ACTION AND PROVIDE INSTRUCTIONS ON HOW TO
7 APPEAL THE DECISION PURSUANT TO SECTION 44-1383.02.

8 F. A CONTROLLER SHALL PROVIDE INFORMATION IN RESPONSE TO A
9 CONSUMER'S REQUEST FREE OF CHARGE, AT LEAST TWICE ANNUALLY PER CONSUMER.
10 IF A REQUEST FROM A CONSUMER IS MANIFESTLY UNFOUNDED, EXCESSIVE OR
11 REPETITIVE, THE CONTROLLER MAY CHARGE THE CONSUMER A REASONABLE FEE TO
12 COVER THE ADMINISTRATIVE COSTS FOR COMPLYING WITH THE REQUEST OR MAY
13 DECLINE TO ACT ON THE REQUEST. THE CONTROLLER HAS THE BURDEN OF SHOWING
14 THAT THE REQUEST IS MANIFESTLY UNFOUNDED, EXCESSIVE OR REPETITIVE.

15 G. IF A CONTROLLER HAS OBTAINED PERSONAL DATA ABOUT A CONSUMER FROM
16 A SOURCE OTHER THAN THE CONSUMER AND THE CONTROLLER RECEIVES A CONSUMER
17 REQUEST TO DELETE THE CONSUMER'S PERSONAL DATA, THE CONTROLLER SHALL
18 DELETE THE PERSONAL DATA AND SHALL:

19 1. RETAIN A RECORD OF THE CONSUMER REQUEST TO DELETE THE PERSONAL
20 DATA.

21 2. RETAIN THE MINIMUM AMOUNT OF DATA THAT IS NECESSARY TO ENSURE
22 THAT THE CONSUMER'S PERSONAL DATA REMAINS DELETED FROM THE BUSINESS'S
23 RECORDS AND SHALL NOT USE THE RETAINED DATA FOR ANY OTHER PURPOSES.

24 3. OPT OUT THE CONSUMER FROM ANY PROCESSING OF PERSONAL DATA FOR
25 ANY PURPOSE OTHER THAN A PURPOSE THAT IS EXEMPT UNDER THIS SECTION.

26 44-1383.02. Consumer appeal process; controller requirements

27 A. A CONTROLLER SHALL ESTABLISH A PROCESS FOR A CONSUMER TO APPEAL
28 THE CONTROLLER'S DECISION TO REFUSE TO TAKE ACTION OR ABOUT A PROLONGED
29 DELAY, A DENIAL OF OR AN INABILITY TO AUTHENTICATE A CONSUMER REQUEST.

30 B. THE APPEALS PROCESS MUST BE CONSPICUOUSLY AVAILABLE AND SIMILAR
31 TO THE PROCESS FOR SUBMITTING A CONSUMER REQUEST PURSUANT TO SECTION
32 44-1383.01.

33 C. A CONTROLLER SHALL INFORM THE CONSUMER IN WRITING OF ANY ACTION
34 TAKEN OR NOT TAKEN IN RESPONSE TO AN APPEAL NOT LATER THAN SIXTY CALENDAR
35 DAYS AFTER RECEIVING THE APPEAL AND SHALL INCLUDE A WRITTEN EXPLANATION OF
36 THE REASON OR REASONS FOR THE CONTROLLER'S DECISION.

37 D. IF A CONTROLLER DENIES AN APPEAL, THE CONTROLLER SHALL PROVIDE
38 THE CONSUMER WITH INFORMATION, INCLUDING ONLINE INFORMATION THAT EXPLAINS
39 HOW THE CONSUMER MAY CONTACT THE ATTORNEY GENERAL'S OFFICE TO SUBMIT A
40 CONSUMER FRAUD COMPLAINT AS PRESCRIBED IN CHAPTER 10, ARTICLE 7 OF THIS
41 TITLE.

42 44-1383.03. Consumer contract; waiver prohibition

43 BEGINNING ON JANUARY 1, 2027, ANY CONTRACT OR AMENDMENT TO A
44 CONTRACT THAT WAIVES OR LIMITS A CONSUMER RIGHT PROVIDED UNDER THIS
45 ARTICLE IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

1 44-1383.04. Consumer requests; submission

2 A. A CONTROLLER SHALL ESTABLISH TWO OR MORE SECURE AND RELIABLE
3 METHODS TO ALLOW CONSUMERS TO EXERCISE THEIR CONSUMER RIGHTS UNDER THIS
4 ARTICLE. THE METHODS SHALL TAKE INTO CONSIDERATION ALL OF THE FOLLOWING:

5 1. THE MANNER IN WHICH CONSUMERS NORMALLY INTERACT WITH THE
6 CONTROLLER.

7 2. THE NECESSITY FOR SECURE AND RELIABLE COMMUNICATIONS OF THOSE
8 REQUESTS.

9 3. THE ABILITY OF THE CONTROLLER TO AUTHENTICATE THE IDENTITY OF
10 THE CONSUMER MAKING THE REQUEST.

11 B. A CONTROLLER MAY NOT REQUIRE A CONSUMER TO CREATE A NEW ACCOUNT
12 TO EXERCISE CONSUMER RIGHTS UNDER THIS ARTICLE, BUT MAY REQUIRE A CONSUMER
13 TO USE AN EXISTING ACCOUNT.

14 C. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, IF A
15 CONTROLLER MAINTAINS A WEBSITE, THE CONTROLLER SHALL PROVIDE A MECHANISM
16 ON THE WEBSITE FOR CONSUMERS TO SUBMIT CONSUMER REQUESTS.

17 D. A CONTROLLER THAT OPERATES EXCLUSIVELY ONLINE AND THAT HAS A
18 DIRECT RELATIONSHIP WITH THE CONSUMER FROM WHOM THE CONTROLLER COLLECTS
19 PERSONAL INFORMATION IS REQUIRED TO PROVIDE ONLY AN EMAIL ADDRESS FOR THE
20 SUBMISSION OF CONSUMER REQUESTS.

21 E. A CONSUMER MAY DESIGNATE ANOTHER PERSON TO SERVE AS THE
22 CONSUMER'S AUTHORIZED AGENT AND ACT ON THE CONSUMER'S BEHALF TO OPT OUT OF
23 PROCESSING THE CONSUMER'S PERSONAL DATA. A CONSUMER MAY DESIGNATE AN
24 AUTHORIZED AGENT BY USING A TECHNOLOGY, INCLUDING A LINK TO AN INTERNET
25 WEBSITE, AN INTERNET BROWSER SETTING OR EXTENSION OR A GLOBAL SETTING ON
26 AN ELECTRONIC DEVICE, THAT ALLOWS THE CONSUMER TO INDICATE THE CONSUMER'S
27 INTENT TO OPT OUT OF THE PROCESSING. THE CONTROLLER SHALL PROVIDE A
28 CONSUMER OR THE AUTHORIZED AGENT OF THE CONSUMER WITH TECHNOLOGY, LINKS TO
29 AN INTERNET WEBSITE, INTERNET BROWSER SETTINGS OR A GLOBAL SETTING ON AN
30 ELECTRONIC DEVICE THAT WOULD ALLOW A CONSUMER TO OPT OUT OF PROCESSING
31 PERSONAL DATA. A CONTROLLER SHALL COMPLY WITH AN OPT OUT REQUEST THAT IS
32 RECEIVED FROM TECHNOLOGIES ACTING AS A CONSUMER'S AUTHORIZED AGENT AND
33 THAT INDICATE THE INTENT TO OPT OUT OF PROCESSING OF THE CONSUMER'S
34 PERSONAL DATA UNDER THIS ARTICLE. A CONTROLLER IS NOT REQUIRED TO VERIFY
35 A REQUEST TO OPT OUT THROUGH AN AUTHORIZED AGENT, TECHNOLOGY OR A TOOL ON
36 THE CONTROLLER'S WEBSITE.

37 44-1383.05. Controller duties; consumer data

38 A. A CONTROLLER SHALL:

39 1. LIMIT THE COLLECTION OF PERSONAL DATA TO WHAT IS RELEVANT AND
40 REASONABLY NECESSARY IN RELATION TO THE PURPOSES FOR WHICH THE PERSONAL
41 DATA IS PROCESSED AS DISCLOSED IN A PRIVACY NOTICE MADE AVAILABLE TO THE
42 CONSUMER AT THE TIME OF COLLECTION.

43 2. PROTECT THE CONFIDENTIALITY, INTEGRITY AND ACCESS TO PERSONAL
44 DATA BY ESTABLISHING, IMPLEMENTING AND MAINTAINING REASONABLE
45 ADMINISTRATIVE, TECHNICAL AND PHYSICAL DATA SECURITY PRACTICES THAT ARE

1 APPROPRIATE TO THE VOLUME AND NATURE OF THE CONTROLLER'S USE OF PERSONAL
2 DATA.

3 B. A CONTROLLER MAY NOT:

4 1. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, PROCESS PERSONAL
5 DATA FOR A PURPOSE THAT IS NOT REASONABLY NECESSARY OR COMPATIBLE WITH THE
6 DISCLOSED PURPOSE FOR WHICH THE PERSONAL DATA IS COLLECTED, AS DISCLOSED
7 TO THE CONSUMER IN A PRIVACY NOTICE, UNLESS THE CONTROLLER OBTAINS
8 CONSUMER CONSENT AFTER PROVIDING THE CONSUMER A NOTICE OF THE NEW PURPOSE
9 OF COLLECTING AND PROCESSING THE PERSONAL DATA.

10 2. PROCESS PERSONAL DATA IN VIOLATION OF STATE OR FEDERAL LAWS THAT
11 PROHIBIT UNLAWFUL DISCRIMINATION AGAINST CONSUMERS.

12 3. DISCRIMINATE AGAINST A CONSUMER WHO EXERCISES ANY OF THE
13 CONSUMER RIGHTS CONTAINED IN THIS ARTICLE BY DOING ANY OF THE FOLLOWING:

14 (a) DENYING GOODS OR SERVICES.

15 (b) CHARGING DIFFERENT PRICES OR RATES FOR GOODS OR SERVICES.

16 (c) PROVIDING GOODS OR SERVICES AT A DIFFERENT LEVEL OF QUALITY.

17 4. PROCESS SENSITIVE DATA OF A CONSUMER WITHOUT OBTAINING THE
18 CONSUMER'S CONSENT OR PROCESS THE SENSITIVE DATA OF A KNOWN CHILD IN
19 VIOLATION OF THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT OF 1998
20 (P.L. 105-277; 112 STAT. 2681; 15 UNITED STATES CODE SECTION 6501).

21 C. SUBSECTION B, PARAGRAPH 3 OF THIS SECTION MAY NOT BE CONSTRUED
22 TO REQUIRE A CONTROLLER TO PROVIDE A PRODUCT OR SERVICE THAT REQUIRES THE
23 PERSONAL DATA OF A CONSUMER THAT THE CONTROLLER DOES NOT COLLECT OR
24 MAINTAIN OR TO PROHIBIT A CONTROLLER FROM OFFERING A DIFFERENT PRICE,
25 RATE, LEVEL, QUALITY OR SELECTION OF GOODS OR SERVICES TO A CONSUMER,
26 INCLUDING OFFERING GOODS OR SERVICES FOR NO FEE, IF THE CONSUMER HAS
27 EXERCISED THE CONSUMER'S RIGHT TO OPT OUT UNDER THIS ARTICLE OR THE OFFER
28 IS RELATED TO A CONSUMER'S VOLUNTARY PARTICIPATION IN A BONA FIDE LOYALTY,
29 REWARDS, PREMIUM FEATURES, DISCOUNTS OR CLUB CARD PROGRAM.

30 44-1383.06. Privacy notice

31 A. A CONTROLLER SHALL PROVIDE EACH CONSUMER WITH A REASONABLY
32 ACCESSIBLE AND CLEARLY WRITTEN PRIVACY NOTICE THAT INCLUDES:

33 1. THE CATEGORIES OF PERSONAL DATA COLLECTED AND PROCESSED BY THE
34 CONTROLLER, INCLUDING, IF APPLICABLE, ANY SENSITIVE DATA PROCESSED BY THE
35 CONTROLLER.

36 2. THE PURPOSES FOR COLLECTING AND PROCESSING PERSONAL DATA.

37 3. HOW THE CONSUMER MAY EXERCISE THEIR CONSUMER RIGHT TO OPT OUT OF
38 PERSONAL DATA COLLECTION AND PROCESSING AND FILE A CONSUMER REQUEST TO
39 REMOVE PERSONAL DATA PURSUANT TO SECTION 44-1383.01 THAT INCLUDES THE
40 PROCESS BY WHICH A CONSUMER MAY APPEAL A CONTROLLER'S DECISION PURSUANT TO
41 SECTION 44-1383.02.

42 4. IF APPLICABLE, THE CATEGORIES OF PERSONAL DATA THAT THE
43 CONTROLLER SHARES WITH THIRD PARTIES.

44 5. IF APPLICABLE, THE CATEGORIES OF THIRD PARTIES WITH WHOM THE
45 CONTROLLER SHARES PERSONAL DATA.

1 6. A DESCRIPTION OF THE METHODS REQUIRED UNDER SECTION 44-1383.01
2 THAT DESCRIBES HOW A CONSUMER MAY SUBMIT REQUESTS TO EXERCISE THEIR
3 CONSUMER RIGHTS UNDER THIS ARTICLE.

4 B. IF A CONTROLLER ENGAGES IN THE SALE OF PERSONAL DATA OR
5 PROCESSES PERSONAL DATA FOR TARGETED ADVERTISING, THE CONTROLLER SHALL
6 CLEARLY AND CONSPICUOUSLY PROVIDE THE FOLLOWING NOTICE AND INCLUDE IN THE
7 NOTICE THE MANNER IN WHICH THE CONSUMER MAY OPT OUT OF THE SALE OF
8 PERSONAL DATA OR TARGETED ADVERTISING: "WE MAY SELL YOUR PERSONAL DATA OR
9 USE YOUR PERSONAL DATA FOR TARGETED ADVERTISING. IF YOU WANT TO OPT OUT
10 OF THE SALE OF PERSONAL DATA OR TARGETED ADVERTISING, YOU MAY [DESCRIBE
11 THE SPECIFIC MANNER IN WHICH THE CONSUMER MAY OPT OUT]." THE NOTICE MUST
12 BE POSTED IN THE SAME LOCATION AND IN THE SAME MANNER AS THE PRIVACY
13 NOTICE DESCRIBED IN SUBSECTION A OF THIS SECTION.

14 C. IF A CONTROLLER ENGAGES IN THE SALE OF SENSITIVE DATA, THE
15 CONTROLLER SHALL CLEARLY AND CONSPICUOUSLY PROVIDE THE FOLLOWING NOTICE
16 SPECIFYING THE TYPE OF SENSITIVE DATA AND INCLUDE IN THE NOTICE THE MANNER
17 IN WHICH THE CONSUMER MAY OPT OUT OF THE SALE OF SENSITIVE DATA: "WE MAY
18 SELL YOUR [NAME THE SPECIFIC TYPE OF SENSITIVE DATA, INCLUDING BIOMETRIC
19 PERSONAL DATA]. IF YOU WANT TO OPT OUT OF THE SALE OF THE SENSITIVE DATA,
20 YOU MAY [DESCRIBE THE SPECIFIC MANNER IN WHICH THE CONSUMER MAY OPT OUT]." THE NOTICE MUST BE POSTED IN THE SAME LOCATION AND IN THE SAME MANNER AS THE PRIVACY NOTICE DESCRIBED IN SUBSECTION A OF THIS SECTION.

21 D. THE PRIVACY NOTICE MUST BE POSTED ONLINE THROUGH A CONSPICUOUS
22 LINK USING THE WORD "PRIVACY" ON THE CONTROLLER'S WEBSITE HOME PAGE OR ON
23 A MOBILE APPLICATION'S APP STORE PAGE OR DOWNLOAD PAGE.

24 E. A CONTROLLER THAT MAINTAINS AN APPLICATION ON A MOBILE OR OTHER
25 DEVICE SHALL ALSO INCLUDE A LINK TO THE PRIVACY NOTICE IN THE
26 APPLICATION'S SETTING.

27 F. A CONTROLLER THAT DOES NOT OPERATE A WEBSITE SHALL MAKE THE
28 PRIVACY NOTICE CONSPICUOUSLY AVAILABLE TO CONSUMERS THROUGH A MEDIUM
29 REGULARLY USED BY THE CONTROLLER TO INTERACT WITH CONSUMERS, FOR INSTANCE,
30 IF A CONTROLLER INTERACTS WITH A CONSUMER OFFLINE, AN OFFLINE VERSION OF
31 THE PRIVACY NOTICE MUST BE AVAILABLE TO THE CONSUMER.

32 G. TO ENABLE A CONSUMER TO EXERCISE THE RIGHT TO OPT OUT OF
33 PROCESSING AS DESCRIBED IN THIS ARTICLE, THE CONTROLLER MUST:

34 1. PROVIDE THE DISCLOSURES REQUIRED BY SUBSECTIONS B AND C OF THIS
35 SECTION.

36 2. PROVIDE A CLEAR, CONSPICUOUS METHOD FOR EACH OR ALL OF THE OPT
37 OUT PURPOSES, AS APPLICABLE, EITHER DIRECTLY OR THROUGH A LINK, IN A CLEAR
38 AND CONSPICUOUS AND READILY ACCESSIBLE LOCATION OUTSIDE OF THE PRIVACY
39 NOTICE.

40 H. TO ENABLE A CONSUMER TO EXERCISE THE RIGHT TO OPT OUT OF
41 PROCESSING PERSONAL DATA FOR THE PURPOSE OF PROFILING IN FURTHERANCE OF A
42 DECISION THAT PRODUCES A LEGAL OR SIMILARLY SIGNIFICANT EFFECT CONCERNING
43 THE CONSUMER, THE CONTROLLER SHALL PROVIDE A CLEAR AND CONSPICUOUS METHOD
44
45

1 FOR CONSUMERS TO EXERCISE THE RIGHT TO OPT OUT OF PROCESSING PERSONAL DATA
2 FOR SUCH PROFILING AT OR BEFORE THE TIME SUCH PROCESSING OCCURS.

3 44-1383.07. Sale of data for targeted advertising;
4 disclosure; opt out

5 IF A CONTROLLER SELLS PERSONAL DATA FOR TARGETED ADVERTISING, THE
6 CONTROLLER SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE THE PROCESS AND THE
7 MANNER IN WHICH A CONSUMER MAY EXERCISE THE RIGHT TO OPT OUT OF THAT
8 PROCESS.

9 44-1383.08. Duties of processor; contracts between controller
10 and processor

11 A. A PROCESSOR SHALL ADHERE TO THE INSTRUCTIONS OF A CONTROLLER AND
12 SHALL ASSIST THE CONTROLLER IN MEETING OR COMPLYING WITH THE CONTROLLER'S
13 DUTIES OR REQUIREMENTS UNDER THIS ARTICLE, INCLUDING:

14 1. ASSISTING THE CONTROLLER IN RESPONDING TO CONSUMER RIGHTS'
15 REQUESTS SUBMITTED UNDER SECTION 44-1383.01 BY USING APPROPRIATE TECHNICAL
16 AND ORGANIZATIONAL MEASURES, AS REASONABLY PRACTICABLE, TAKING INTO
17 CONSIDERATION THE NATURE OF PROCESSING AND THE INFORMATION AVAILABLE TO
18 THE PROCESSOR.

19 2. ASSISTING THE CONTROLLER IN COMPLYING WITH THE SECURITY
20 REQUIREMENTS WHEN PROCESSING PERSONAL DATA AND, IF APPLICABLE, PERSONAL
21 DATA COLLECTED, STORED AND PROCESSED BY AN ARTIFICIAL INTELLIGENCE SYSTEM,
22 AND NOTIFYING THE CONTROLLER OF ANY BREACH OF SECURITY IN THE PROCESSOR'S
23 SYSTEM.

24 3. PROVIDING NECESSARY INFORMATION TO ENABLE THE CONTROLLER TO
25 CONDUCT AND DOCUMENT DATA PROTECTION ASSESSMENTS UNDER SECTION 44-1383.09.

26 B. A CONTRACT BETWEEN A CONTROLLER AND A PROCESSOR SHALL GOVERN THE
27 RIGHTS AND RESPONSIBILITIES OF THE DATA PROCESSING PROCEDURES THAT ARE
28 PERFORMED ON BEHALF OF THE CONTROLLER. THE CONTRACT MUST INCLUDE ALL OF
29 THE FOLLOWING:

- 30 1. CLEAR INSTRUCTIONS FOR PROCESSING PERSONAL DATA.
- 31 2. THE NATURE AND PURPOSE OF PROCESSING PERSONAL DATA.
- 32 3. THE TYPE OF SPECIFIC PERSONAL DATA SUBJECT TO PROCESSING.
- 33 4. THE DURATION OF PROCESSING.
- 34 5. THE RIGHTS AND OBLIGATIONS OF THE CONTROLLER AND THE PROCESSOR.
- 35 6. A REQUIREMENT THAT THE PROCESSOR:

36 (a) ENSURE THAT EACH PERSON THAT IS PROCESSING PERSONAL DATA IS
37 SUBJECT TO A DUTY OF CONFIDENTIALITY WITH RESPECT TO THE PERSONAL DATA.

38 (b) AT THE CONTROLLER'S DIRECTION, DELETE OR RETURN ALL PERSONAL
39 DATA TO THE CONTROLLER AS REQUESTED AFTER THE SERVICE IS COMPLETED, UNLESS
40 RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW.

41 (c) MAKE AVAILABLE TO THE CONTROLLER, ON REASONABLE REQUEST, ALL
42 INFORMATION IN THE PROCESSOR'S POSSESSION THAT IS NECESSARY TO DEMONSTRATE
43 THE PROCESSOR'S COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE.

44 (d) ALLOW AND COOPERATE WITH REASONABLE ASSESSMENTS BY THE
45 CONTROLLER OR THE CONTROLLER'S DESIGNATED ASSESSOR.

1 (e) ENGAGE ANY SUBCONTRACTOR PURSUANT TO A WRITTEN CONTRACT THAT
2 REQUIRES THE SUBCONTRACTOR TO MEET THE REQUIREMENTS OF THE PROCESSOR WITH
3 RESPECT TO THE PROCESSING OF PERSONAL DATA.

4 C. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 6, SUBDIVISION (e) OF
5 THIS SECTION, A PROCESSOR MAY ARRANGE FOR A QUALIFIED AND INDEPENDENT
6 ASSESSOR TO CONDUCT AN ASSESSMENT OF THE PROCESSOR'S POLICIES, TECHNICAL
7 CAPABILITIES AND ORGANIZATIONAL STRUCTURES TO SERVE AS A PROCESSOR. THE
8 PROCESSOR SHALL PROVIDE A REPORT OF THE ASSESSMENT TO THE CONTROLLER ON
9 REQUEST.

10 D. THIS SECTION DOES NOT RELIEVE A CONTROLLER OR A PROCESSOR FROM
11 ANY LIABILITY IN VIOLATION OF THIS ARTICLE.

12 E. WHETHER A PERSON IS ACTING AS A CONTROLLER OR PROCESSOR IS A
13 FACT-BASED QUESTION TAKING INTO CONSIDERATION THE CONTRACT BETWEEN THE
14 CONTROLLER AND PROCESSOR AND HOW THE DATA IS PROCESSED. A PROCESSOR THAT
15 CONTINUES TO ADHERE TO A CONTROLLER'S INSTRUCTIONS WHEN PROCESSING
16 PERSONAL DATA REMAINS IN THE ROLE OF A PROCESSOR.

17 44-1383.09. Data protection assessments

18 A. A CONTROLLER SHALL CONDUCT AND DOCUMENT A DATA PROTECTION
19 ASSESSMENT OF EACH OF THE FOLLOWING ACTIVITIES:

20 1. THE PROCESSING OF PERSONAL DATA FOR THE PURPOSES OF TARGETED
21 ADVERTISING.

22 2. THE PROCESSING OF PERSONAL DATA FOR SALE.

23 3. THE PROCESSING OF PERSONAL DATA FOR THE PURPOSES OF PROFILING IF
24 THE PROFILING PRESENTS A REASONABLY FORESEEABLE RISK OF ANY OF THE
25 FOLLOWING:

26 (a) UNFAIR OR DECEPTIVE TREATMENT OR UNLAWFUL DISPARATE IMPACT ON
27 CONSUMERS.

28 (b) FINANCIAL, PHYSICAL OR REPUTATIONAL INJURY TO CONSUMERS.

29 (c) INVASION OF PRIVACY THAT WOULD BE OFFENSIVE TO A REASONABLE
30 PERSON.

31 (d) OTHER SUBSTANTIAL INJURY TO CONSUMERS.

32 (e) THE PROCESSING OF SENSITIVE PERSONAL DATA.

33 (f) ANY PROCESSING ACTIVITIES THAT INVOLVES PERSONAL DATA AND THAT
34 PRESENTS A HEIGHTENED RISK OF HARM TO CONSUMERS.

35 B. A DATA PROTECTION ASSESSMENT CONDUCTED UNDER SUBSECTION A OF
36 THIS SECTION SHALL DO BOTH OF THE FOLLOWING:

37 1. IDENTIFY AND WEIGH THE DIRECT OR INDIRECT BENEFITS THAT MAY FLOW
38 FROM THE PROCESSING TO THE CONTROLLER, THE CONSUMER, OTHER STAKEHOLDERS
39 AND THE PUBLIC AGAINST THE POTENTIAL RISKS TO THE RIGHTS OF THE CONSUMER
40 ASSOCIATED WITH THAT PROCESSING AS MITIGATED BY SAFEGUARDS THAT CAN BE
41 EMPLOYED BY THE CONTROLLER TO REDUCE THE RISKS.

42 2. TAKE INTO CONSIDERATION ALL OF THE FOLLOWING:

43 (a) THE USE OF DEIDENTIFIED DATA.

44 (b) THE REASONABLE EXPECTATIONS OF CONSUMERS.

45 (c) THE CONTEXT OF THE PROCESSING.

1 (d) THE RELATIONSHIP BETWEEN THE CONTROLLER AND THE CONSUMER WHOSE
2 PERSONAL DATA WILL BE PROCESSED.

3 C. A CONTROLLER SHALL PROVIDE A COPY OF THE DATA PROTECTION
4 ASSESSMENT TO THE ATTORNEY GENERAL ON REQUEST OR PURSUANT TO A CIVIL
5 INVESTIGATION DEMAND. DISCLOSURE OF A DATA PROTECTION ASSESSMENT IN
6 COMPLIANCE WITH A REQUEST FROM THE ATTORNEY GENERAL DOES NOT CONSTITUTE A
7 WAIVER OF ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT PROTECTION WITH
8 RESPECT TO THE ASSESSMENT AND ANY INFORMATION THAT IS CONTAINED IN THE
9 ASSESSMENT.

10 D. A DATA PROTECTION ASSESSMENT IS CONFIDENTIAL AND NOT A PUBLIC
11 RECORD UNDER TITLE 39, CHAPTER 1, ARTICLE 2.

12 E. A SINGLE DATA PROTECTION ASSESSMENT IS PERMISSIBLE IF THE SINGLE
13 DATA PROTECTION ASSESSMENT IS COMPARABLE TO OTHER PROCESSING OPERATIONS
14 THAT INCLUDE SIMILAR ACTIVITIES.

15 F. A DATA PROTECTION ASSESSMENT CONDUCTED BY A CONTROLLER FOR THE
16 PURPOSES OF COMPLIANCE WITH OTHER LAWS OR REGULATIONS CONSTITUTES
17 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION IF THE ASSESSMENT HAS A
18 REASONABLY COMPARABLE SCOPE AND EFFECT.

19 44-1383.10. Deidentified or pseudonymous data

20 A. A CONTROLLER THAT IS IN POSSESSION OF DEIDENTIFIED DATA SHALL:

21 1. TAKE REASONABLE MEASURES TO ENSURE THAT THE DEIDENTIFIED DATA
22 CANNOT BE ASSOCIATED WITH ANY INDIVIDUAL.

23 2. PUBLICLY COMMIT ON THE CONTROLLER'S WEBSITE OR IN A PRIVACY
24 NOTICE TO MAINTAINING AND USING DEIDENTIFIED DATA WITHOUT ATTEMPTING TO
25 REIDENTIFY THE DEIDENTIFIED DATA.

26 3. CONTRACTUALLY OBLIGATE ANY RECIPIENT OF THE DEIDENTIFIED DATA TO
27 COMPLY WITH THIS ARTICLE.

28 B. THIS SECTION DOES NOT REQUIRE A CONTROLLER OR PROCESSOR TO:

29 1. REIDENTIFY DEIDENTIFIED DATA OR PSEUDONYMOUS DATA.

30 2. MAINTAIN DEIDENTIFIED DATA OR PSEUDONYMOUS DATA IN IDENTIFIABLE
31 FORM OR TO OBTAIN, RETAIN OR ACCESS ANY DATA OR TECHNOLOGY FOR THE
32 PURPOSES OF ALLOWING THE CONTROLLER OR PROCESSOR TO ASSOCIATE A CONSUMER
33 REQUEST WITH PERSONAL DATA.

34 3. COMPLY WITH AN AUTHENTICATED CONSUMER REQUEST UNDER SECTION
35 44-1383.01 IF THE CONTROLLER:

36 (a) IS NOT REASONABLY CAPABLE OF ASSOCIATING THE REQUEST WITH THE
37 PERSONAL DATA OR IT WOULD BE UNREASONABLY BURDENSOME FOR THE CONTROLLER TO
38 ASSOCIATE THE REQUEST WITH THE PERSONAL DATA.

39 (b) DOES NOT USE THE PERSONAL DATA TO RECOGNIZE OR RESPOND TO THE
40 SPECIFIC CONSUMER WHO IS THE SUBJECT OF THE PERSONAL DATA OR ASSOCIATE THE
41 PERSONAL DATA WITH OTHER PERSONAL DATA ABOUT THE SAME SPECIFIC CONSUMER.

42 C. THE CONSUMER RIGHTS UNDER THIS ARTICLE DO NOT APPLY TO
43 PSEUDONYMOUS DATA IN CASES IN WHICH THE CONTROLLER IS ABLE TO DEMONSTRATE
44 ANY INFORMATION NECESSARY TO IDENTIFY THE CONSUMER IS KEPT SEPARATELY AND

1 IS SUBJECT TO EFFECTIVE TECHNICAL AND ORGANIZATIONAL CONTROLS THAT PREVENT
2 THE CONTROLLER FROM ACCESSING THE INFORMATION.

3 D. A CONTROLLER THAT DISCLOSES PSEUDONYMOUS DATA OR DEIDENTIFIED
4 DATA SHALL EXERCISE REASONABLE OVERSIGHT TO MONITOR COMPLIANCE AND SHALL
5 TAKE APPROPRIATE STEPS TO ADDRESS ANY BREAKDOWN IN MAINTAINING COMPLIANCE
6 IF PERSONAL DATA A CONTROLLER CLAIMS IS DEIDENTIFIED OR PSEUDONYMOUS IS
7 REIDENTIFIED AND USED IN A MANNER THAT VIOLATES THIS ARTICLE, A
8 PRESUMPTION WILL EXIST THAT THE CONTROLLER OR PROCESSOR MAINTAINING THE
9 REIDENTIFIED DATA IS RESPONSIBLE FOR ANY VIOLATION OR BREACH OF THE
10 PERSONAL DATA.

11 44-1383.11. Sale of personal data; prohibition

12 A CONTROLLER OR PROCESSOR MAY NOT SELL A CONSUMER'S SENSITIVE DATA
13 WITHOUT RECEIVING PRIOR CONSUMER WRITTEN CONSENT.

14 44-1383.12. Attorney general; website; filing of complaints

15 THE ATTORNEY GENERAL SHALL POST ON THE ATTORNEY GENERAL'S WEBSITE
16 BOTH OF THE FOLLOWING:

17 1. INFORMATION RELATING TO:

18 (a) THE RESPONSIBILITIES OF A CONTROLLER PURSUANT TO THIS ARTICLE.

19 (b) THE RESPONSIBILITIES OF A PROCESSOR PURSUANT TO THIS ARTICLE.

20 (c) A CONSUMER'S OPTIONS REGARDING HOW TO SUBMIT A CONSUMER REQUEST
21 TO A CONTROLLER PURSUANT TO SECTION 44-1386.01 AND HOW TO FILE AN APPEAL
22 IF A CONSUMER'S RIGHTS WERE DENIED PURSUANT TO SECTION 44-1386.02.

23 2. AN ONLINE MECHANISM THROUGH WHICH A CONSUMER MAY SUBMIT A
24 COMPLAINT UNDER THIS ARTICLE TO THE ATTORNEY GENERAL.

25 44-1383.13. Attorney general; violations; right to cure;
26 civil penalty

27 A. AN ACT OR PRACTICE IN VIOLATION OF THIS ARTICLE CONSTITUTES AN
28 UNLAWFUL PRACTICE PURSUANT TO SECTION 44-1522. THE ATTORNEY GENERAL MAY
29 INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO CHAPTER 10, ARTICLE 7
30 OF THIS TITLE. THE ATTORNEY GENERAL MAY PROMULGATE RULES FOR THE PURPOSE
31 OF CARRYING OUT THIS ARTICLE, PARTICULARLY THE DETAILS OF HOW TO PROVIDE A
32 PRIVACY NOTICE AND OPT OUT METHODS, HOW TO RESPOND TO RIGHTS REQUESTS AND
33 HOW TO DETERMINE WHETHER SECONDARY PROCESSING IS COMPATIBLE WITH THE
34 PURPOSE OF PROCESSING INDICATED IN THE PRIVACY NOTICE.

35 B. BEFORE BRINGING AN ACTION PURSUANT TO CHAPTER 10, ARTICLE 7 OF
36 THIS TITLE, THE ATTORNEY GENERAL SHALL NOTIFY A CONTROLLER IN WRITING NOT
37 MORE THAN THIRTY DAYS BEFORE FILING THE ACTION AND SHALL IDENTIFY THE
38 SPECIFIC PROVISIONS OF THIS ARTICLE THAT THE ATTORNEY GENERAL ALLEGES HAVE
39 BEEN VIOLATED. THE ATTORNEY GENERAL MAY NOT BRING AN ACTION AGAINST THE
40 CONTROLLER IF BOTH OF THE FOLLOWING APPLY:

41 1. THE CONTROLLER CURES THE IDENTIFIED VIOLATION WITHIN THIRTY DAYS
42 AFTER NOTIFICATION FROM THE ATTORNEY GENERAL.

43 2. THE CONTROLLER PROVIDES THE ATTORNEY GENERAL WITH A WRITTEN
44 STATEMENT THAT THE CONTROLLER:

45 (a) CURED THE ALLEGED VIOLATION.

1 (b) NOTIFIED THE CONSUMER THAT THE CONSUMER'S REQUEST WAS ADDRESSED
2 IF THE CONSUMER'S CONTACT INFORMATION WAS MADE AVAILABLE TO THE
3 CONTROLLER.

4 (c) PROVIDED DOCUMENTATION TO SHOW HOW THE ALLEGED VIOLATION WAS
5 CURED.

6 (d) MADE CHANGES TO INTERNAL POLICIES, IF NECESSARY, TO ENSURE THAT
7 FURTHER VIOLATIONS WILL NOT OCCUR.

8 C. A PERSON, CONTROLLER, PROCESSOR OR THIRD-PARTY AGENT THAT
9 VIOLATES THIS ARTICLE FOLLOWING THE CURE PERIOD OR THAT BREACHES A WRITTEN
10 STATEMENT PROVIDED TO THE ATTORNEY GENERAL UNDER THIS SECTION IS LIABLE
11 FOR A CIVIL PENALTY IN AN AMOUNT OF NOT MORE THAN \$7,500 FOR EACH
12 VIOLATION.

13 D. THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION IN THE NAME OF
14 THIS STATE TO:

15 1. RECOVER A CIVIL PENALTY UNDER THIS SECTION.

16 2. RESTRAIN OR ENJOIN THE PERSON CONTROLLER, PROCESSOR OR
17 THIRD-PARTY AGENT FROM VIOLATING THIS ARTICLE.

18 3. SEEK INJUNCTIVE RELIEF.

19 E. THE ATTORNEY GENERAL MAY RECOVER REASONABLE ATTORNEY FEES.

20 F. THIS ARTICLE DOES NOT ESTABLISH A PRIVATE RIGHT OF ACTION.

21 44-1383.14. Collection, use, or retention of personal data

22 A. THE REQUIREMENTS IMPOSED ON CONTROLLERS AND PROCESSORS UNDER
23 THIS ARTICLE MAY NOT RESTRICT A CONTROLLER'S OR PROCESSOR'S ABILITY TO
24 COLLECT, USE OR RETAIN PERSONAL DATA TO:

25 1. CONDUCT INTERNAL RESEARCH TO DEVELOP, IMPROVE OR REPAIR
26 PRODUCTS, SERVICES OR TECHNOLOGY.

27 2. EFFECT A PRODUCT RECALL.

28 3. IDENTIFY AND REPAIR TECHNICAL ERRORS THAT IMPAIR EXISTING OR
29 INTENDED FUNCTIONALITY.

30 4. PERFORM INTERNAL OPERATIONS THAT ARE ALL OF THE FOLLOWING:

31 (a) REASONABLY ALIGNED WITH THE EXPECTATIONS OF THE CONSUMER.

32 (b) REASONABLY ANTICIPATED BASED ON THE CONSUMER'S EXISTING
33 RELATIONSHIP WITH THE CONTROLLER.

34 (c) OTHERWISE COMPATIBLE WITH PROCESSING PERSONAL DATA IN
35 FURTHERANCE OF THE PROVISION OF A PRODUCT OR SERVICE SPECIFICALLY
36 REQUESTED BY A CONSUMER OR THE PERFORMANCE OF A CONTRACT TO WHICH THE
37 CONSUMER IS A PARTY. WHETHER PROCESSING IS COMPATIBLE DEPENDS ON THE
38 CONTEXT OF THE RELATIONSHIP WITH THE CONSUMER, THE NECESSITY OF THE
39 PROCESSING TO PROVIDE THE SPECIFIC PRODUCT OR SERVICE REQUESTED AND THE
40 CONSUMER'S EXPECTATIONS OF THE USE OF PERSONAL DATA IN THE CONTEXT OF THE
41 RELATIONSHIP AND THE PRODUCT OR SERVICE REQUESTED.

42 B. A CONTROLLER OR PROCESSOR IS NOT REQUIRED TO COMPLY WITH A
43 REQUIREMENT OF THIS SECTION IF COMPLIANCE WOULD VIOLATE AN EVIDENTIARY
44 PRIVILEGE UNDER THE LAWS OF THIS STATE.

