



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2149

Introduced 2/15/2019, by Sen. Michael E. Hastings

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Right to Know Data Transparency and Privacy Act. Provides that an operator of a commercial website or online service that collects personally identifiable information through the Internet about individual customers residing in Illinois who use or visit its commercial website or online service shall notify those customers of certain specified information pertaining to its personal information sharing practices. Requires an operator to make available certain specified information upon disclosing a customer's personal information to a third party, and to provide an email address, toll-free telephone number, or webform whereby customers may request or obtain that information. Provides violation provisions. Provides that any waiver of the provisions of the Act or any agreement that does not comply with the applicable provisions of the Act shall be void and unenforceable. Provides that no provision of the Act shall be construed to conflict with or apply to specified provisions of federal or State law or certain interactions with State or local government. Provides findings and purpose. Defines terms.

LRB101 10850 RJF 55988 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Right  
5 to Know Data Transparency and Privacy Act.

6 Section 5. Findings and purpose.

7 The General Assembly hereby finds and declares that:

8 (1) The right to privacy is a personal and fundamental  
9 right protected by the United States Constitution. As such,  
10 all individuals have a right to privacy in information  
11 pertaining to them. This State recognizes the importance of  
12 providing consumers with transparency about how their  
13 personal information, especially information relating to  
14 their children, is shared by businesses. This transparency  
15 is crucial for Illinois citizens to protect themselves and  
16 their families from cyber-crimes and identity thieves.

17 (2) Furthermore, for free market forces to have a role  
18 in shaping the privacy practices and for "opt-in" and  
19 "opt-out" remedies to be effective, consumers must be more  
20 than vaguely informed that a business might share personal  
21 information with third parties. Consumers must be better  
22 informed about what kinds of personal information are  
23 shared with other businesses. With these specifics,

1 consumers can knowledgeably choose to opt-in, opt-out, or  
2 choose among businesses that disclose information to third  
3 parties on the basis of how protective the business is of  
4 consumers' privacy.

5 (3) Businesses are now collecting personal information  
6 and sharing and selling it in ways not contemplated or  
7 properly covered by the current law. Some websites are  
8 installing tracking tools that record when consumers visit  
9 web pages, and sending very personal information, such as  
10 age, gender, race, income, health concerns, religion, and  
11 recent purchases to third party marketers and data brokers.  
12 Third party data broker companies are buying, selling, and  
13 trading personal information obtained from mobile phones,  
14 financial institutions, social media sites, and other  
15 online and brick and mortar companies. Some mobile  
16 applications are sharing personal information, such as  
17 location information, unique phone identification numbers,  
18 and age, gender, and other personal details with third  
19 party companies.

20 (4) As such, consumers need to know the ways that their  
21 personal information is being collected by companies and  
22 then shared or sold to third parties in order to properly  
23 protect their privacy, personal safety, and financial  
24 security.

25 Section 10. Definitions. As used in this Act:

1 "Categories of personal information" includes, but is not  
2 limited to, the following:

3 (a) Identity information including, but not limited  
4 to, real name, alias, nickname, and user name.

5 (b) Address information, including, but not limited  
6 to, postal or e-mail.

7 (c) Telephone number.

8 (d) Account name.

9 (e) Social security number or other government-issued  
10 identification number, including, but not limited to,  
11 social security number, driver's license number,  
12 identification card number, and passport number.

13 (f) Birthdate or age.

14 (g) Physical characteristic information, including,  
15 but not limited to, height and weight.

16 (h) Sexual information, including, but not limited to,  
17 sexual orientation, sex, gender status, gender identity,  
18 and gender expression.

19 (i) Race or ethnicity.

20 (j) Religious affiliation or activity.

21 (k) Political affiliation or activity.

22 (l) Professional or employment-related information.

23 (m) Educational information.

24 (n) Medical information, including, but not limited  
25 to, medical conditions or drugs, therapies, mental health,  
26 or medical products or equipment used.

1           (o) Financial information, including, but not limited  
2           to, credit, debit, or account numbers, account balances,  
3           payment history, or information related to assets,  
4           liabilities, or general creditworthiness.

5           (p) Commercial information, including, but not limited  
6           to, records of property, products or services provided,  
7           obtained, or considered, or other purchasing or consumer  
8           histories or tendencies.

9           (q) Location information.

10          (r) Internet or mobile activity information,  
11          including, but not limited to, Internet protocol addresses  
12          or information concerning the access or use of any Internet  
13          or mobile-based site or service.

14          (s) Content, including text, photographs, audio or  
15          video recordings, or other material generated by or  
16          provided by the customer.

17          (t) Any of the above categories of information as they  
18          pertain to the children of the customer.

19          "Customer" means an individual residing in Illinois who  
20          provides, either knowingly or unknowingly, personal  
21          information to a private entity, with or without an exchange of  
22          consideration, in the course of purchasing, viewing,  
23          accessing, renting, leasing, or otherwise using real or  
24          personal property, or any interest therein, or obtaining a  
25          product or service from the private entity, including  
26          advertising or any other content.

1 "Designated request address" means an email address,  
2 toll-free telephone number, or webform whereby customers may  
3 request or obtain the information required to be provided under  
4 Section 15 of this Act.

5 "Disclose" means to disclose, release, transfer, share,  
6 disseminate, make available, or otherwise communicate orally,  
7 in writing, or by electronic or any other means to any third  
8 party. "Disclose" does not include the following:

9 (a) Disclosure of personal information by a private  
10 entity to a third party under a written contract  
11 authorizing the third party to utilize the personal  
12 information to perform services on behalf of the private  
13 entity, including maintaining or servicing accounts,  
14 disclosure of personal information by a private entity to a  
15 transportation network company driver or TNC as defined  
16 under the Transportation Network Providers Act, providing  
17 customer service, processing or fulfilling orders and  
18 transactions, verifying customer information, processing  
19 payments, providing financing, or similar services, but  
20 only if the contract prohibits the third party from using  
21 the personal information for any reason other than  
22 performing the specified service or services on behalf of  
23 the private entity and from disclosing any such personal  
24 information to additional third parties.

25 (b) Disclosure of personal information by a business to  
26 a third party based on a good-faith belief that disclosure

1 is required to comply with applicable law, regulation,  
2 legal process, or court order.

3 (c) Disclosure of personal information by a private  
4 entity to a third party that is reasonably necessary to  
5 address fraud, security, or technical issues; to protect  
6 the disclosing private entity's rights or property; or to  
7 protect customers or the public from illegal activities as  
8 required or permitted by law.

9 "Operator" means any person or entity that owns an Internet  
10 website or an online service that collects and maintains  
11 personally identifiable information from a customer residing  
12 in this State who uses or visits the website or online service  
13 if the website or online service is operated for commercial  
14 purposes. "Operator" does not include any third party that  
15 operates, hosts, or manages, but does not own, a website or  
16 online service on the owner's behalf or by processing  
17 information on behalf of the owner.

18 "Personal information" means any information that  
19 identifies, relates to, describes, or is capable of being  
20 associated with, a particular individual, including, but not  
21 limited to, his or her name, signature, physical  
22 characteristics or description, address, telephone number,  
23 passport number, driver's license or State identification card  
24 number, insurance policy number, education, employment,  
25 employment history, bank account number, credit card number,  
26 debit card number, or any other financial information.

1 "Personal information" also means any data or information  
2 pertaining to an individual's income, assets, liabilities,  
3 purchases, leases, or rentals of goods, services, or real  
4 property, if that information is disclosed, or is intended to  
5 be disclosed, with any identifying information, such as the  
6 individual's name, address, telephone number, or social  
7 security number.

8 "Third party" or "third parties" means (i) a private entity  
9 that is a separate legal entity from the private entity that  
10 has disclosed personal information; (ii) a private entity that  
11 does not share common ownership or common corporate control  
12 with the private entity that has disclosed personal  
13 information; or (iii) a private entity that does not share a  
14 brand name or common branding with the private entity that has  
15 disclosed personal information such that the affiliate  
16 relationship is clear to the customer.

17 Section 15. Notification of information sharing practices.  
18 An operator of a commercial website or online service that  
19 collects personally identifiable information through the  
20 Internet about individual customers residing in this State who  
21 use or visit its commercial website or online service shall, in  
22 its customer agreement or incorporated addendum, or in another  
23 conspicuous location on its website or online service platform  
24 where similar notices are customarily posted: (i) identify all  
25 categories of personal information that the operator collects



1 through the website or online service about individual  
2 customers who use or visit its commercial website or online  
3 service; (ii) identify all categories of third party persons or  
4 entities with whom the operator may disclose that personally  
5 identifiable information; and (iii) provide a description of a  
6 customer's rights, as required under Section 25 of this Act,  
7 accompanied by one or more designated request addresses.

8 Section 20. Disclosure of a customer's personal  
9 information to a third party.

10 (a) An operator that discloses a customer's personal  
11 information to a third party shall make the following  
12 information available to the customer free of charge:

13 (1) the categories of personal information that were  
14 disclosed about an individual customer, and the name or  
15 names of all third parties that received the customer's  
16 personal information; or

17 (2) all categories of personal information about  
18 customers that were disclosed, and the name or names of all  
19 third parties that received any customer's personal  
20 information.

21 (b) This Section applies only to personal information  
22 disclosed after the effective date of this Act.

23 Section 25. Information availability service.

24 (a) An operator required to comply with Section 20 shall

1 make the required information available by providing a  
2 designated request address in its customer agreement or  
3 incorporated addendum, or in another conspicuous location on  
4 its website or online service platform where similar notices  
5 are customarily posted, and, upon receipt of a request under  
6 this Section, shall provide the customer with the information  
7 required under Section 20 for all disclosures occurring in the  
8 prior 12 months.

9 (b) An operator that receives a request from a customer  
10 under this Section at one of the designated addresses shall  
11 provide a response to the customer within 30 days.

12 (c) Notwithstanding the provisions of this Section, a  
13 parent or legal guardian of a customer under the age of 18 may  
14 submit a request under this Section on behalf of that customer.  
15 An operator shall not be required to, but may respond to a  
16 request made by the same parent or legal guardian on behalf of  
17 a customer under the age of 18 more than once within a given  
18 12-month period.

19 Section 30. Violations. A violation of this Act constitutes  
20 a violation of the Consumer Fraud and Deceptive Business  
21 Practices Act. The Office of the Attorney General or the  
22 appropriate State's Attorney's office shall have sole  
23 enforcement authority of the provisions of this Act and may  
24 enforce a violation of this Act as an unlawful practice under  
25 the Consumer Fraud and Deceptive Business Practices Act.

1 Nothing in this Section shall prevent a person from seeking a  
2 right of action for a violation of the Biometric Information  
3 Privacy Act or otherwise seeking relief under the Code of Civil  
4 Procedure.

5 Section 35. Waivers; contracts. Any waiver of the  
6 provisions of this Act shall be void and unenforceable. Any  
7 agreement that does not comply with the applicable provisions  
8 of this Act shall be void and unenforceable.

9 Section 40. Construction.

10 (a) Nothing in this Act shall be construed to conflict with  
11 the federal Health Insurance Portability and Accountability  
12 Act of 1996 and the rules promulgated under that Act.

13 (b) Nothing in this Act shall be deemed to apply in any  
14 manner to a financial institution or an affiliate of a  
15 financial institution that is subject to Title V of the federal  
16 Gramm-Leach-Bliley Act of 1999 and the rules promulgated under  
17 that Act.

18 (c) Nothing in this Act shall be construed to apply to a  
19 contractor, subcontractor, or agent of a State agency or unit  
20 of local of government when working for that State agency or  
21 unit of local of government.

22 (d) Nothing in this Act shall be construed to apply to: (i)  
23 Internet, wireless, or telecommunications service providers;  
24 or (ii) a public utility, an alternative retail electric

1 supplier, or an alternative gas supplier, as those terms are  
2 defined in Sections 3-105, 16-102, and 19-105 of the Public  
3 Utilities Act, or an electric cooperative, as defined in  
4 Section 3.4 of the Electric Supplier Act.

5 (e) Nothing in this Act shall be construed to apply to: (i)  
6 a hospital operated under the Hospital Licensing Act; (ii) a  
7 hospital affiliate, as defined under the Hospital Licensing  
8 Act; or (iii) a hospital operated under the University of  
9 Illinois Hospital Act.