

1 (2)(A) “Brokered personal information” means:

2 (i) one or more of the following computerized data elements about
3 a consumer:

4 (I) name;

5 (II) address;

6 ~~(C) name or address of a member of his or her immediate family or~~
7 ~~household;~~

8 (III) a personal identifier, including a Social Security number,
9 other government-issued identification number, or biometric record;

10 (IV) an indirect identifier, including date of birth, place of
11 birth, or mother’s maiden name; or

12 (V) other information that, alone or in combination, is linked or
13 linkable to the consumer that would allow a reasonable person to identify the
14 consumer with reasonable certainty; and

15 (ii) the computerized data element or elements are:

16 (I) categorized by characteristic for dissemination to third
17 parties; or

18 (II) combined with nonpublic information.

19 (B) “Brokered personal information” does not include publicly
20 available information that is solely related to a consumer’s business or
21 profession.

1 (3) “Business” means a commercial entity, including a sole
2 proprietorship, partnership, corporation, association, limited liability company,
3 or other group, however organized and whether or not organized to operate at a
4 profit, including a financial institution organized, chartered, or holding a
5 license or authorization certificate under the laws of this State, any other state,
6 the United States, or any other country, or the parent, affiliate, or subsidiary of
7 a financial institution, but ~~in no case shall it~~ does not include the State, a State
8 agency, ~~or~~ any political subdivision of the State, or a vendor acting solely on
9 behalf of, and at the direction of, the State.

10 ~~(2)~~(4) “Consumer” means an individual residing in this State.

11 (5)(A) “Data broker” means:

12 (i) A business that:

13 (I) provides people search services; or

14 (II) collects and sells or licenses to one or more third parties the
15 brokered personal information of a consumer with whom the business does not
16 have a direct relationship.

17 (ii) “Data broker” includes each affiliated business that is under
18 common ownership or control if one business collects brokered personal
19 information and provides it to another to sell or license.

20 (B) “Data broker” does not include:

1 (i) a business that solely develops or maintains third-party e-
2 commerce or application platforms; or

3 (ii) a business that solely provides publicly available information
4 via real-time or near-real-time alert services for health or safety purposes.

5 (C) For purposes of subdivision (3)(A)(ii) of this subsection,
6 examples of a direct relationship with a business include if the consumer is a
7 past or present:

8 (i) customer, client, subscriber, or user of the business’s goods or
9 services;

10 (ii) employee, contractor, or agent of the business;

11 (iii) investor in the business; or

12 (iv) donor to the business.

13 (C) The term “data broker” does not include a vendor acting solely
14 on behalf of the State, a State agency, or a political subdivision of the State.

15 (D) For purposes of subdivision (3)(A)(ii) of this subsection, a
16 business does not sell or license brokered personal information within the
17 meaning of the definition of “data broker” if the sale or license is merely
18 incidental to one of its lines of business.

19 (6)(A) “Data broker security breach” means an unauthorized acquisition
20 or a reasonable belief of an unauthorized acquisition of more than one element
21 of brokered personal information maintained by a data broker when the

1 brokered personal information is not encrypted, redacted, or protected by
2 another method that renders the information unreadable or unusable by an
3 unauthorized person.

4 (B) “Data broker security breach” does not include good faith but
5 unauthorized acquisition of brokered personal information by an employee or
6 agent of the data broker for a legitimate purpose of the data broker, provided
7 that the brokered personal information is not used for a purpose unrelated to
8 the data broker’s business or subject to further unauthorized disclosure.

9 (C) In determining whether brokered personal information has been
10 acquired or is reasonably believed to have been acquired by a person without
11 valid authorization, a data broker may consider the following factors, among
12 others:

13 (i) indications that the brokered personal information is in the
14 physical possession and control of a person without valid authorization, such
15 as a lost or stolen computer or other device containing brokered personal
16 information;

17 (ii) indications that the brokered personal information has been
18 downloaded or copied;

19 (iii) indications that the brokered personal information was used
20 by an unauthorized person, such as fraudulent accounts opened or instances of
21 identity theft reported; or

1 (iv) that the brokered personal information has been made public.

2 ~~(3)(7)~~ “Data collector” ~~may include the State, State agencies, political~~
3 ~~subdivisions of the State, public and private universities, privately and publicly~~
4 ~~held corporations, limited liability companies, financial institutions, retail~~
5 ~~operators, and any other entity that, means a person who, for any purpose,~~
6 ~~whether by automated collection or otherwise, handles, collects, disseminates,~~
7 ~~or otherwise deals with nonpublic personal information personally identifiable~~
8 information, and includes the State, State agencies, political subdivisions of the
9 State, public and private universities, privately and publicly held corporations,
10 limited liability companies, financial institutions, and retail operators.

11 ~~(4)(8)~~ “Encryption” means use of an algorithmic process to transform
12 data into a form in which the data is rendered unreadable or unusable without
13 use of a confidential process or key.

14 (9) “License” means a grant of access to, or distribution of, data by one
15 person to another in exchange for consideration. A use of data for the sole
16 benefit of the data provider, where the data provider maintains control over the
17 use of the data, is not a license.

18 (10)(A) “People search services” means an Internet-based service in
19 which an individual can pay a fee to search for a specific consumer, and which
20 provides information about the consumer such as the consumer’s address, age,
21 maiden name, alias, name or addresses of relatives, financial records, criminal

1 records, background reports, or property details, where the consumer whose
2 data is provided does not have a direct relationship with the business.

3 (B) “People search services” does not include a service that solely
4 provides publicly available information related to a consumer’s business or
5 profession.

6 ~~(5)(11)~~(A) “Personally identifiable information” means ~~an individual’s a~~
7 consumer’s first name or first initial and last name in combination with any
8 one or more of the following digital data elements, when either the name or the
9 data elements are not encrypted or redacted or protected by another method
10 that renders them unreadable or unusable by unauthorized persons:

11 (i) Social Security number;

12 (ii) motor vehicle operator’s license number or nondriver
13 identification card number;

14 (iii) financial account number or credit or debit card number, if
15 circumstances exist in which the number could be used without additional
16 identifying information, access codes, or passwords;

17 (iv) account passwords or personal identification numbers or other
18 access codes for a financial account.

19 (B) “Personally identifiable information” does not mean publicly
20 available information that is lawfully made available to the general public from
21 federal, State, or local government records.

1 ~~(6)~~(12) “~~Records~~ Record” means any material on which written, drawn,
2 spoken, visual, or electromagnetic information is recorded or preserved,
3 regardless of physical form or characteristics.

4 ~~(7)~~(13) “Redaction” means the rendering of data so that ~~it is~~ the data are
5 unreadable or is are truncated so that no more than the last four digits of the
6 identification number are accessible as part of the data.

7 ~~(8)~~(14)(A) “Security breach” means unauthorized acquisition of,
8 ~~electronic data~~ or a reasonable belief of an unauthorized acquisition of,
9 ~~electronic data that compromises the security, confidentiality, or integrity of a~~
10 ~~consumer’s~~ personally identifiable information maintained by ~~the~~ a data
11 collector.

12 (B) “Security breach” does not include good faith but unauthorized
13 acquisition of personally identifiable information by an employee or agent of
14 the data collector for a legitimate purpose of the data collector, provided that
15 the personally identifiable information is not used for a purpose unrelated to
16 the data collector’s business or subject to further unauthorized disclosure.

17 (C) In determining whether personally identifiable information has
18 been acquired or is reasonably believed to have been acquired by a person
19 without valid authorization, a data collector may consider the following
20 factors, among others:

1 (i) indications that the information is in the physical possession
2 and control of a person without valid authorization, such as a lost or stolen
3 computer or other device containing information;

4 (ii) indications that the information has been downloaded or
5 copied;

6 (iii) indications that the information was used by an unauthorized
7 person, such as fraudulent accounts opened or instances of identity theft
8 reported; or

9 (iv) that the information has been made public.

10 § 2433. ACQUISITION OF BROKERED PERSONAL INFORMATION;

11 PROHIBITIONS

12 (a) Prohibited acquisition and use.

13 (1) A person shall not acquire brokered personal information through
14 fraudulent means.

15 (2) A person shall not acquire or use brokered personal information for
16 the purpose of:

17 (A) stalking or harassing another person;

18 (B) committing a fraud, including identity theft, financial fraud, or e-
19 mail fraud; or

20 (C) engaging in unlawful discrimination, including employment
21 discrimination and housing discrimination.

1 (A) the name and primary physical, e-mail, and Internet addresses of
2 the data broker;

3 (B) the nature and type of sources used to compile data;

4 (C) if the data broker permits a consumer to opt out of the data
5 broker’s collection of brokered personal information, opt out of its databases,
6 or opt out of certain sales of data:

7 (i) the method for requesting an opt out;

8 (ii) if the opt out applies to only certain activities or sales, which
9 ones; and

10 (iii) whether the data broker permits a consumer to authorize a
11 third party to perform the opt out on the consumer’s behalf;

12 (D) a statement specifying the data collection, databases, or sales
13 activities from which a consumer may not opt out;

14 (E) a statement whether the data broker implements a purchaser
15 credentialing process;

16 (F) the number of data broker security breaches that the data broker
17 has experienced during the prior year, and if known, the total number of
18 consumers affected by the breaches;

19 (G) where the data broker has actual knowledge that it possesses the
20 brokered personal information of minors, a separate statement detailing the

1 data collection practices, databases, sales activities, and opt out policies that
2 are applicable to the brokered personal information of minors; and

3 (H) any additional information or explanation the data broker
4 chooses to provide concerning its data collection practices.

5 (b) A data broker that fails to register pursuant to subsection (a) of this
6 section is liable to the State for:

7 (1) a civil penalty of \$50.00 for each day, not to exceed a total of
8 \$10,000.00 for each year, it fails to register pursuant to this section;

9 (2) an amount equal to the fees due under this section during the period
10 it failed to register pursuant to this section; and

11 (3) other penalties imposed by law.

12 (c) The Attorney General may maintain an action in the Civil Division of
13 the Superior Court to collect the penalties imposed in this section and to seek
14 appropriate injunctive relief.

15 **§ 2447. DATA BROKER DUTY TO PROTECT INFORMATION;**

16 **STANDARDS; TECHNICAL REQUIREMENTS**

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19 **Sec. 3. 9 V.S.A. § 2480b is amended to read:**

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1 Sec. 4. 9 V.S.A. § 2480h is amended to read:

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4 Sec. 5. REPORTS

5 (a) On or before March 1, 2019, the Attorney General ~~the Department of~~
6 ~~Financial Regulation~~ and Secretary of State shall submit a preliminary report
7 concerning the implementation of this act to the House Committee on
8 Commerce and Economic Development and the Senate Committee on
9 Economic Development, Housing and General Affairs.

10 (b) On or before January 15, 2020, the Attorney General ~~the Department of~~
11 ~~Financial Regulation~~ and Secretary of State shall update its preliminary report
12 and provide additional information concerning the implementation of this act
13 to the House Committee on Commerce and Economic Development and the
14 Senate Committee on Economic Development, Housing and General Affairs.

15 (c) On or before January 15, 2019, the Attorney General shall:

16 (1) review and consider additional legislative and regulatory approaches
17 to protecting the data security and privacy of Vermont consumers, including:

18 (A) whether to create or designate a Chief Privacy Officer and if so,
19 the appropriate duties for, and the resources necessary to support, that
20 position; and

1 (B) whether to expand the scope of regulation to businesses with
2 direct relationships to consumers; and
3 (2) report its findings and recommendations to the House Committees
4 on Commerce and Economic Development and on Energy and Technology and
5 to the Senate Committee on Economic Development, Housing and General
6 Affairs.

7 Sec. 6. ONE-STOP FREEZE NOTIFICATION

8 (a) The Attorney General, in consultation with industry stakeholders, shall
9 consider one or more methods to ease the burden on consumers when placing
10 or lifting a credit security freeze, including the right to place a freeze with a
11 single nationwide credit reporting agency and require that agency to initiate a
12 freeze with other agencies.

13 (b) On or before January 15, 2019, the Attorney General shall report his or
14 her findings and recommendations to the House Committee on Commerce and
15 Economic Development and the Senate Committee on Economic
16 Development, Housing and General Affairs.

17 Sec. 7. EFFECTIVE DATES

18 (a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for
19 placing or removing a credit freeze), and 5–6 (reports) shall take effect on
20 passage.

21 (b) Sec. 2 (data brokers) shall take effect on January 1, 2019.