

Senate proposal of amendment

H. 211

An act relating to data brokers and personal information.

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 1, in section 2430, by striking out subdivision (16)(B) in its entirety and inserting in lieu thereof a new subdivision (16)(B) to read as follows:

(B) “Publicly available information” does not include:

(i) biometric data collected by a business about a consumer without the consumer’s knowledge;

(ii) any obscene visual depiction, as defined in 18 U.S.C. § 1460;

(iii) genetic data, unless otherwise made publicly available by the consumer to whom the information pertains; or

(iv) intimate images, authentic or computer-generated, known to be nonconsensual.

Second: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, in subdivision (a)(4), by striking out subdivision (A) in its entirety and inserting in lieu thereof a new subdivision (A) to read as follows:

(A) the name and primary physical, e-mail, and Internet addresses email, and internet addresses and phone number of the data broker;

Third: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, in subdivision (a)(4)(E), by striking out subdivision (ii) in its entirety and inserting in lieu thereof a new subdivision (ii) to read as follows:

(ii) in the past year, has shared consumers’ data with or sold consumers’ data to:

(I) a foreign actor;

(II) the federal government;

(III) other state or local governments;

(IV) law enforcement, unless the data was shared pursuant to a subpoena or other court order; or

(V) a developer of a GenAI system or model;

Fourth: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, in subdivision (a)(4)(I)(i), by striking out “pursuant to subsection (c) of this section” and inserting in lieu thereof “if the data broker permits deletion”

Fifth: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, by striking out subsection (c) in its entirety and by relettering the remaining subsections to be alphabetically correct.

Sixth: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, by striking out the newly relettered subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Consumer rights web page. The Secretary of State shall create and maintain a publicly accessible page on its website that provides consumers with the following:

(1) a downloadable spreadsheet of data brokers that have registered with the State along with the information a data broker provides during registration pursuant to subsection (a) of this section; and

(2) any additional information about the rights consumers have pursuant to this subchapter.

Seventh: In Sec. 1, 9 V.S.A. chapter 62, in subchapter 5, in section 2446, by adding a new subsection to be subsection (e) to read as follows:

(e) Definitions. As used in this subchapter, “consumer” means an individual residing in this State and does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit organization, or government agency whose communications or transactions with the data broker occur solely within the context of that individual’s role with the company, partnership, sole proprietorship, nonprofit organization, or government agency.

Eighth: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a reader assistance heading and a new Sec. 3 to read as follows:

* * * Cybersecurity Advisory Council * * *

Sec. 3. 20 V.S.A. § 4662 is amended to read:

§ 4662. CYBERSECURITY ADVISORY COUNCIL

(a) Creation. There is created the Cybersecurity Advisory Council to advise on the State’s cybersecurity infrastructure, best practices, communications protocols, standards, training, and safeguards.

(b) Membership. The Council shall be composed of the following members:

(1) the Chief Information Officer, who shall serve as the Chair or appoint a designee from the Council to serve as the Chair;

(2) the Chief Information Security Officer;

(3) a representative from a distribution or transmission utility, appointed by the Commissioner of Public Service;

(4) a representative from a State municipal water system, appointed by the Secretary of Natural Resources;

(5) a representative from a Vermont hospital, appointed by the President of the Vermont Association of Hospitals and Health Systems;

(6) a person representing a Vermont business related to an essential supply chain, appointed by the Chair of the Vermont Business Roundtable;

(7) the Director of Vermont Emergency Management or designee;

(8) the Governor's Homeland Security Advisor or designee;

(9) the Vermont Adjutant General or designee;

(10) the Attorney General or designee; and

(11) the President of Vermont Information Technology Leaders or designee;

(12) the Chair of the House Committee on Energy and Digital Infrastructure;

(13) the Chair of the Senate Committee on Institutions; and

(14) a representative from the Judiciary, appointed by the Chief Justice of the Supreme Court.

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Ninth: By adding a new section to be Sec. 3a to read as follows:

Sec. 3a. 2023 Acts and Resolves No. 71, Sec. 4 is amended to read:

Sec. 4. REPEAL

20 V.S.A. chapter 208 (cybersecurity) is repealed on June 30, ~~2028~~ 2033.

Tenth: By adding a reader assistance heading and a new section to be Sec. 4 to read as follows:

* * * Educational Technology * * *

Sec. 4. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

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Subchapter 3A. Student Privacy

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§ 2443f. ENFORCEMENT

(a) A person who violates a provision of this ~~chapter~~ subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to adopt rules to implement the provisions of this subchapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Subchapter 3B. Educational Technology

§ 2444a. REGISTRATION

(a) Definitions. As used in this section:

(1)(A) “Educational technology product” and “product” mean any software, application, or platform that may collect, process, or transmit student data and that is used for teaching and learning purposes in a school in Vermont.

(B) “Educational technology product” and “product” does not include:

(i) hardware or other physical devices; or

(ii) a product that is being used in a school without the knowledge of the provider.

(2) “Filing” means an initial registration, amendment, periodic report, or other filing with the Secretary of State as the Secretary may require.

(3) “Provider of an educational technology product” and “provider” mean a person that provides an educational technology product that is in use at a school.

(4) “School” means a public school or an independent school approved pursuant to 16 V.S.A. § 166 and includes school districts.

(5) “School district” has the same meaning as in 16 V.S.A. § 11(a).

(b) Mandatory data reporting. In addition to all other requirements of a person registering with the Secretary of State pursuant to State law, a person doing business in this State as a provider of an educational technology product shall, at the time of a filing, provide the following:

(1) the name and primary physical, email, and internet addresses of the person;

(2) a link to the most recent version of the privacy policy and terms and conditions of each product in use in any school;

(3) the name of each school in which the provider is operating pursuant to a paid contract;

(4) the name and a brief description of each product of the provider, or a URL that provides the same information;

(5) which products may be in use in any school; and

(6) an attestation that each product meets:

(A) the standards set forth in subchapter 3A of this chapter (student privacy) and subchapter 6 of this chapter (the Vermont Age-Appropriate Design Code Act); and

(B) all relevant federal and State privacy laws, including the federal Children’s Online Privacy Protection Act.

Eleventh: By adding a reader assistance heading and a new section to be Sec. 5 to read as follows:

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 and 4 shall take effect on January 1, 2027.

(b) This section and Secs. 2 and 3 shall take effect on July 1, 2026.

Twelfth: In Sec. 2, study of accessible deletion mechanism; report; appropriation, by striking out subsection (c) in its entirety.