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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
CONSUMER PRIVACY PROTECTION

Introduced By: Senators Conley, DiPalma, Lawson, Satchell, and Cano

Date Introduced: January 31, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 48.1

4 CONSUMER PRIVACY PROTECTION ACT

5 **6-48.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Consumer Privacy Protection Act."

7 **6-48.1-2. Definitions.**

8 As used in this chapter, unless the context requires otherwise:

9 (1) "Aggregate consumer information" means information that relates to a group or
10 category of consumers, from which individual consumer identities have been removed, that is not
11 linked or reasonably linkable to any consumer or household, including via a device. "Aggregate
12 consumer information" does not mean one or more individual consumer records that have been
13 deidentified.

14 (2) "Biometric information" means an individual's physiological, biological or behavioral
15 characteristics, including an individual's deoxyribonucleic acid (DNA), that can be used, singly or
16 in combination with each other or with other identifying data, to establish individual identity.
17 Biometric information includes, but is not limited to, imagery of the iris, retina, fingerprint, face,
18 hand, palm, vein patterns, and voice recordings, from which an identifier template, such as a

1 faceprint, a minutiae template, or a voiceprint, can be extracted, and keystroke patterns or
2 rhythms, gait patterns or rhythms, and sleep, health, or exercise data that contain identifying
3 information.

4 (3) "Business" means:

5 (i) A sole proprietorship, partnership, limited liability company, corporation, association,
6 or other legal entity that is organized or operated for the profit or financial benefit of its
7 shareholders or other owners, that collects consumers' personal information, or on the behalf of
8 which such information is collected and that alone, or jointly with others, determines the purposes
9 and means of the processing of consumers' personal information, that does business in the state of
10 Rhode Island, and that satisfies one or more of the following thresholds:

11 (A) Has annual gross revenues in excess of five million dollars (\$5,000,000);

12 (B) Alone or in combination, annually buys, receives for the business' commercial
13 purposes, sells, or shares for commercial purposes, alone or in combination, the personal
14 information of fifty thousand (50,000) or more consumers, households, or devices; or

15 (C) Derives fifty percent (50%) or more of its annual revenues from selling consumers'
16 personal information.

17 (ii) Any entity that controls or is controlled by a business, as defined in this subsection
18 and that shares common branding with the business. "Control" or "controlled" means ownership
19 of, or the power to vote, more than fifty percent (50%) of the outstanding shares of any class of
20 voting security of a business; control in any manner over the election of a majority of the
21 directors, or of individuals exercising similar functions; or the power to exercise a controlling
22 influence over the management of a company. "Common branding" means a shared name,
23 servicemark, or trademark.

24 (4) "Business purpose" means the use of personal information for the business' or a
25 service provider's operational purposes, or other notified purposes, provided that the use of
26 personal information shall be reasonably necessary and proportionate to achieve the operational
27 purpose for which the personal information was collected or processed or for another operational
28 purpose that is compatible with the context in which the personal information was collected.

29 Business purposes are:

30 (i) Auditing related to a current interaction with the consumer and concurrent
31 transactions, including, but not limited to, counting ad impressions to unique visitors, verifying
32 positioning and quality of ad impressions, and auditing compliance with this specification and
33 other standards.

34 (ii) Detecting security incidents, protecting against malicious, deceptive, fraudulent, or

1 illegal activity, and prosecuting those responsible for that activity.

2 (iii) Debugging to identify and repair errors that impair existing intended functionality.

3 (iv) Short-term, transient use, provided the personal information that is not disclosed to
4 another third party and is not used to build a profile about a consumer or otherwise alter an
5 individual consumer's experience outside the current interaction, including, but not limited to, the
6 contextual customization of ads shown as part of the same interaction.

7 (v) Performing services on behalf of the business or service provider, including
8 maintaining or servicing accounts, providing customer service, processing or fulfilling orders and
9 transactions, verifying customer information, processing payments, providing financing,
10 providing advertising or marketing services, providing analytic services, or providing similar
11 services on behalf of the business or service provider.

12 (vi) Undertaking internal research for technological development and demonstration.

13 (vii) Undertaking activities to verify or maintain the quality or safety of a service or
14 device that is owned, manufactured, manufactured for, or controlled by the business, and to
15 improve, upgrade, or enhance the service or device that is owned, manufactured, manufactured
16 for, or controlled by the business.

17 (5) "Collects," "collected," or "collection" means buying, renting, gathering, obtaining,
18 receiving, or accessing any personal information pertaining to a consumer by any means. This
19 includes receiving information from the consumer, either actively or passively, or by observing
20 the consumer's behavior.

21 (6) "Commercial purposes" means to advance a person's commercial or economic
22 interests, such as by inducing another person to buy, rent, lease, join, subscribe to, provide, or
23 exchange products, goods, property, information, or services, or enabling or effecting, directly or
24 indirectly, a commercial transaction. "Commercial purposes" do not include for the purpose of
25 engaging in speech that state or federal courts have recognized as noncommercial speech,
26 including political speech and journalism.

27 (7) "Consumer" means a natural person who is a Rhode Island resident.

28 (8) "Deidentified" means information that cannot reasonably identify, relate to, describe,
29 be capable of being associated with, or be linked, directly or indirectly, to a particular consumer,
30 provided that a business that uses deidentified information:

31 (i) Has implemented technical safeguards that prohibit reidentification of the consumer to
32 whom the information may pertain.

33 (ii) Has implemented business processes that specifically prohibit reidentification of the
34 information.

1 (iii) Has implemented business processes to prevent inadvertent release of deidentified
2 information.

3 (iv) Makes no attempt to reidentify the information.

4 (9) "Designated methods for submitting requests" means a mailing address, email
5 address, Internet webpage, Internet web portal, toll-free telephone number, or other applicable
6 contact information, whereby consumers may submit a request or direction under this chapter.

7 (10) "Device" means any physical object that is capable of connecting to the Internet,
8 directly or indirectly, or to another device.

9 (11) "Health insurance information" means a consumer's insurance policy number or
10 subscriber identification number, any unique identifier used by a health insurer to identify the
11 consumer, or any information in the consumer's application and claims history, including any
12 appeals records, if the information is linked or reasonably linkable to a consumer or household,
13 including via a device, by a business or service provider.

14 (12) "Homepage" means the introductory page of an Internet website and any Internet
15 webpage where personal information is collected. In the case of an online service, such as a
16 mobile application, "homepage" means the application's platform page or download page, a link
17 within the application, such as from the application configuration, "About," "Information," or
18 settings page, and any other location that allows consumers to review the notice, including, but
19 not limited to, before downloading the application.

20 (13) "Infer" or "inference" means the derivation of information, data, assumptions, or
21 conclusions from facts, evidence, or another source of information or data.

22 (14) "Person" means an individual, proprietorship, firm, partnership, joint venture,
23 syndicate, business trust, company, corporation, limited liability company, association,
24 committee, and any other organization or group of persons acting in concert.

25 (15)(i) "Personal information" means information that identifies, relates to, describes, is
26 capable of being associated with, or could reasonably be linked, directly or indirectly, with a
27 particular consumer or household. Personal information includes, but is not limited to, the
28 following:

29 (A) Identifiers such as a real name, alias, postal address, unique personal identifier,
30 online identifier Internet Protocol address, email address, account name, social security number,
31 driver's license number, passport number, or other similar identifiers;

32 (B) Commercial information, including records of personal property, products or services
33 purchased, obtained, or considered, or other purchasing or consuming histories or tendencies;

34 (C) Biometric information;

1 (D) Internet or other electronic network activity information, including, but not limited
2 to, browsing history, search history, and information regarding a consumer's interaction with an
3 Internet website, application, or advertisement;

4 (E) Geolocation data;

5 (F) Audio, electronic, visual, thermal, olfactory, or similar information;

6 (G) Professional or employment-related information;

7 (H) Education information, defined as information that is not publicly available
8 personally identifiable information;

9 (I) Inferences drawn from any of the information identified in this subsection to create a
10 profile about a consumer reflecting the consumer's preferences, characteristics, psychological
11 trends, preferences, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes;

12 (ii) "Personal information" does not include publicly available information. For these
13 purposes, "publicly available" means information that is lawfully made available from federal,
14 state, or local government records, if any conditions associated with such information. "Publicly
15 available" does not mean biometric information collected by a business about a consumer without
16 the consumer's knowledge. Information is not "publicly available" if that data is used for a
17 purpose that is not compatible with the purpose for which the data is maintained and made
18 available in the government records or for which it is publicly maintained. "Publicly available"
19 does not include consumer information that is deidentified or aggregate consumer information.

20 (16) "Probabilistic identifier" means the identification of a consumer or a device to a
21 degree of certainty of more probable than not based on any categories of personal information
22 included in, or similar to, the categories enumerated in the definition of personal information.

23 (17) "Processing" means any operation or set of operations that are performed on
24 personal data or on sets of personal data, whether or not by automated means.

25 (18) "Pseudonymize" or "Pseudonymization" means the processing of personal
26 information in a manner that renders the personal information no longer attributable to a specific
27 consumer without the use of additional information, provided that the additional information is
28 kept separately and is subject to technical and organizational measures to ensure that the personal
29 information is not attributed to an identified or identifiable consumer.

30 (19) "Research" means scientific, systematic study and observation, including basic
31 research or applied research that is in the public interest and that adheres to all other applicable
32 ethics and privacy laws or studies conducted in the public interest in the area of public health.
33 Research with personal information that may have been collected from a consumer in the course
34 of the consumer's interactions with a business' service or device for other purposes shall be:

- 1 (i) Compatible with the business purpose for which the personal information was
2 collected;
- 3 (ii) Subsequently pseudonymized and deidentified, or deidentified and in the aggregate,
4 such that the information cannot reasonably identify, relate to, describe, be capable of being
5 associated with, or be linked, directly or indirectly, to a particular consumer;
- 6 (iii) Made subject to technical safeguards that prohibit reidentification of the consumer to
7 whom the information may pertain;
- 8 (iv) Subject to business processes that specifically prohibit reidentification of the
9 information;
- 10 (v) Made subject to business processes to prevent inadvertent release of deidentified
11 information;
- 12 (vi) Protected from any reidentification attempts;
- 13 (vii) Used solely for research purposes that are compatible with the context in which the
14 personal information was collected;
- 15 (viii) Not be used for any commercial purpose;
- 16 (ix) Subjected by the business conducting the research to additional security controls
17 limit access to the research data to only those individuals in a business as are necessary to carry
18 out the research purpose.
- 19 (20)(i) "Sell," "selling," "sale," or "sold," means selling, renting, releasing, disclosing,
20 disseminating, making available, transferring, or otherwise communicating orally, in writing, or
21 by electronic or other means, a consumer's personal information by the business to another
22 business or a third party for monetary or other valuable consideration;
- 23 (ii) For purposes of this chapter, a business does not sell personal information when:
- 24 (A) A consumer uses or directs the business to intentionally disclose personal information
25 or uses the business to intentionally interact with a third party, provided the third party does not
26 also sell the personal information, unless that disclosure would be consistent with the provisions
27 of this title. An intentional interaction occurs when the consumer intends to interact with the third
28 party, via one or more deliberate interactions. Hovering over, muting, pausing, or closing a given
29 piece of content does not constitute a consumer's intent to interact with a third party;
- 30 (B) The business uses or shares an identifier for a consumer who has opted out of the sale
31 of the consumer's personal information for the purposes of alerting third parties that the consumer
32 has opted out of the sale of the consumer's personal information;
- 33 (C) The business uses or shares with a service provider personal information of a
34 consumer that is necessary to perform a business purpose if both of the following conditions are

1 met: services that the service provider performs on the business' behalf, provided that the service
2 provider also does not sell the personal information.

3 (I) The business has provided notice that information being used or shared in its terms
4 and conditions;

5 (II) The service provider does not further collect, sell, or use the personal information of
6 the consumer except as necessary to perform the business purpose;

7 (D) The business transfers to a third party the personal information of a consumer as an
8 asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party
9 assumes control of all or part of the business, provided that information is used consistently with
10 this chapter. If a third party materially alters how it uses or shares the personal information of a
11 consumer in a manner that is materially inconsistent with the promises made at the time of
12 collection, it shall provide prior notice of the new or changed practice to the consumer.

13 (21) "Service" or "services" means work, labor, and services, including services furnished
14 in connection with the sale or repair of goods.

15 (22) "Service provider" means a sole proprietorship, partnership, limited liability
16 company, corporation, association, or other legal entity that is organized or operated for the profit
17 or financial benefit of its shareholders or other owners, that processes information on behalf of a
18 business and to which the business discloses a consumer's personal information for a business
19 purpose pursuant to a written contract, provided that the contract prohibits the entity receiving the
20 information from retaining, using, or disclosing the personal information for any purpose other
21 than for the specific purpose of performing the services specified in the contract for the business,
22 or as otherwise permitted by this title, including retaining, using, or disclosing the personal
23 information for a commercial purpose other than providing the services specified in the contract
24 with the business.

25 (23) "Third party" means a person who is not any of the following:

26 (i) The business that collects personal information from consumers under this title;

27 (ii) A person to whom the business discloses a consumer's personal information for a
28 business purpose pursuant to a written contract, provided that the contract:

29 (A) Prohibits the person receiving the personal information from:

30 (I) Selling the personal information;

31 (II) Retaining, using, or disclosing the personal information for any purpose other than
32 for the specific purpose of performing the services specified in the contract, including retaining,
33 using, or disclosing the personal information for a commercial purpose other than providing the
34 services specified in the contract;

1 (III) Retaining, using, or disclosing the information outside of the direct business
2 relationship between the person and the business;

3 (B) Includes a certification made by the person receiving the personal information that
4 the person understands the restrictions in this chapter and will comply with them.

5 Any person who violates any of the restrictions set forth in this chapter shall be liable for
6 the violations. A business that discloses personal information to a person in compliance with this
7 chapter shall not be liable under this title if the person receiving the personal information uses it
8 in violation of the restrictions set forth in this chapter; provided that, at the time of disclosing the
9 personal information, the business does not have actual knowledge, or reason to believe, that the
10 person intends to commit such a violation.

11 (24) "Unique identifier" or "unique personal identifier" means a persistent identifier that
12 can be used to recognize a consumer, a family, or a device that is linked to a consumer or family,
13 over time and across different services, including, but not limited to, a device identifier; an
14 Internet Protocol address; cookies, beacons, pixel tags, mobile ad identifiers, or similar
15 technology; customer number, unique pseudonym, or user alias; telephone numbers, or other
16 forms of persistent or probabilistic identifiers that can be used to identify a particular consumer or
17 device. For purposes of this subsection, "family" means a custodial parent or guardian and any
18 minor children over which the parent or guardian has custody.

19 (25) "Verifiable consumer request" means a request that is made by a consumer, by a
20 consumer on behalf of the consumer's minor child, or by a natural person that the business can
21 reasonably verify, to be the consumer about whom the business has collected personal
22 information. A business is not obligated to provide information to the consumer if the business
23 cannot verify, that the consumer making the request is the consumer about whom the business has
24 collected information.

25 **6-48.1-3. Businesses that collect information.**

26 (a) A consumer shall have the right to request that a business that collects a consumer's
27 personal information disclose to that consumer the categories and specific pieces of personal
28 information the business has collected.

29 (b) A business that collects a consumer's personal information shall, at or before the point
30 of collection, inform consumers as to the categories of personal information to be collected and
31 the purposes for which the categories of personal information shall be used. A business shall not
32 collect additional categories of personal information or use personal information collected for
33 additional purposes without providing the consumer with notice consistent with this section.

34 (c) A business shall provide the information specified in subsection (a) of this section to a

1 consumer only upon receipt of a verifiable consumer request.

2 (d) A business that receives a verifiable consumer request from a consumer to access
3 personal information shall promptly take steps to disclose and deliver, free of charge to the
4 consumer, the personal information required by this section. The information may be delivered by
5 mail or electronically, and if provided electronically, the information shall be in a portable and, to
6 the extent technically feasible, in a readily useable format that allows the consumer to transmit
7 this information to another entity without hindrance. A business may provide personal
8 information to a consumer at any time, but shall not be required to provide personal information
9 to a consumer more than twice in a twelve (12) month period.

10 (e) This section shall not require a business to retain any personal information collected
11 for a single, one-time transaction, if such information is not sold or retained by the business or to
12 reidentify or otherwise link information that is not maintained in a manner that would be
13 considered personal information.

14 **6-48.1-4. Request to delete information.**

15 (a) A consumer shall have the right to request that a business delete any personal
16 information about the consumer which the business has collected from the consumer.

17 (b) A business that collects personal information about consumers shall disclose, at or
18 before the point of collection the consumer's rights to request the deletion of the consumer's
19 personal information.

20 (c) A business that receives a verifiable request from a consumer to delete the consumer's
21 personal information shall delete the consumer's personal information from its records and direct
22 any service providers to delete the consumer's personal information from their records, except as
23 provided in subsection (d) of this section.

24 (d) A business or a service provider shall not be required to comply with a consumer's
25 request to delete the consumer's personal information if it is necessary for the business or service
26 provider to maintain the consumer's personal information in order to:

27 (1) Complete the transaction for which the personal information was collected, provide a
28 good or service requested by the consumer, or reasonably anticipated within the context of a
29 business's ongoing business relationship with the consumer, or otherwise perform a contract
30 between the business and the consumer;

31 (2) Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal
32 activity; or prosecute those responsible for that activity;

33 (3) Debug to identify and repair errors that impair existing intended functionality;

34 (4) Exercise free speech, ensure the right of another consumer to exercise his or her right

1 of free speech, or exercise another right provided for by law;

2 (5) Engage in public or peer-reviewed scientific, historical, or statistical research in the
3 public interest that adheres to all other applicable ethics and privacy laws, when the businesses'
4 deletion of the information is likely to render impossible or seriously impair the achievement of
5 such research, if the consumer has provided informed consent;

6 (6) To enable solely internal uses that are reasonably aligned with the expectations of the
7 consumer based on the consumer's relationship with the business;

8 (7) Comply with a legal obligation;

9 (8) Otherwise use the consumer's personal information, internally, in a lawful manner
10 that is compatible with the context in which the consumer provided the information.

11 **6-48.1-5. Information disclosed upon request.**

12 (a) A consumer shall have the right to request that a business that collects, maintains or
13 sells personal information about the consumer disclose to the consumer the following:

14 (1) The categories of personal information it has collected about that consumer;

15 (2) The categories of sources from which the personal information is collected;

16 (3) The business or commercial purpose for collecting or selling personal information;

17 (4) The categories of third parties with whom the business shares personal information;

18 (5) The specific pieces of personal information it has collected about that consumer.

19 (b) A business that collects personal information about a consumer shall disclose to the
20 consumer the information specified in subsection (a) of this section upon receipt of a verifiable
21 request from the consumer.

22 (c) This section does not require a business to do the following:

23 (1) Retain any personal information about a consumer collected for a single one-time
24 transaction if, in the ordinary course of business, that information about the consumer is not
25 retained;

26 (2) Reidentify or otherwise link any data that, in the ordinary course of business, is not
27 maintained in a manner that would be considered personal information.

28 **6-48.1-6. Businesses that sell information.**

29 (a) A consumer shall have the right to request that a business that sells the consumer's
30 personal information, or that discloses it for a business purpose, disclose to that consumer:

31 (1) The categories of personal information that the business collected about the
32 consumer;

33 (2) The categories of personal information that the business sold about the consumer and
34 the categories of third parties to whom the personal information was sold, by category or

1 categories of personal information for each third party to whom the personal information was
2 sold;

3 (3) The categories of personal information that the business disclosed about the consumer
4 for a business purpose.

5 (b) A business that sells personal information about a consumer, or that discloses a
6 consumer's personal information for a business purpose, shall disclose, the information specified
7 in subsection (a) of this section to the consumer upon receipt of a verifiable request from the
8 consumer.

9 (c) A third party shall not sell personal information about a consumer that has been sold
10 to the third party by a business unless the consumer has received explicit notice and is provided
11 an opportunity to exercise the right to opt out pursuant to this chapter.

12 **6-48.1-7. Opt-out.**

13 (a) A consumer shall have the right, at any time, to direct a business that sells personal
14 information about the consumer to third parties not to sell the consumer's personal information.
15 This right may be referred to as the right to opt out.

16 (b) A business that sells consumers' personal information to third parties shall provide
17 notice to consumers, that this information may be sold and that consumers have the right to opt
18 out of the sale of their personal information.

19 (c) A business that has received direction from a consumer not to sell the consumer's
20 personal information or, in the case of a minor consumer's personal information has not received
21 consent to sell the minor consumer's personal information shall be prohibited from selling the
22 consumer's personal information after its receipt of the consumer's direction, unless the consumer
23 subsequently provides express authorization for the sale of the consumer's personal information.

24 (d) Notwithstanding subsection (a) of this section, a business shall not sell the personal
25 information of consumers if the business has actual knowledge that the consumer is less than
26 sixteen (16) years of age, unless the consumer, in the case of consumers between thirteen (13) and
27 sixteen (16) years of age, or the consumer's parent or guardian, in the case of consumers who are
28 less than thirteen (13) years of age, has affirmatively authorized the sale of the consumer's
29 personal information. A business that willfully disregards the consumer's age shall be deemed to
30 have had actual knowledge of the consumer's age. This right may be referred to as the "right to
31 opt in."

32 **6-48.1-8. Prohibition on discrimination.**

33 (a)(1) A business shall not discriminate against a consumer because the consumer
34 exercised any of the consumer's rights under this chapter, including, but not limited to, by:

1 (i) Denying goods or services to the consumer;
2 (ii) Charging different prices or rates for goods or services, including through the use of
3 discounts or other benefits or imposing penalties;
4 (iii) Providing a different level or quality of goods or services to the consumer, if the
5 consumer exercises the consumer's rights under this chapter.

6 (iv) Suggesting that the consumer will receive a different price or rate for goods or
7 services or a different level or quality of goods or services.

8 (2) Nothing in this subsection prohibits a business from charging a consumer a different
9 price or rate, or from providing a different level or quality of goods or services to the consumer, if
10 that difference is reasonably related to the value provided to the consumer by the consumer's data.

11 (b)(1) A business may offer financial incentives, including payments to consumers as
12 compensation, for the collection of personal information, the sale of personal information, or the
13 deletion of personal information. A business may also offer a different price, rate, level, or quality
14 of goods or services to the consumer if that price or difference is directly related to the value
15 provided to the consumer by the consumer's data.

16 (2) A business that offers any financial incentives pursuant to subsection (a) of this
17 section, shall notify consumers of the financial incentives.

18 (3) A business may enter a consumer into a financial incentive program only if the
19 consumer gives the business prior opt-in consent which clearly describes the material terms of the
20 financial incentive program, and which may be revoked by the consumer at any time.

21 (4) A business shall not use financial incentive practices that are unjust, unreasonable,
22 coercive, or usurious in nature.

23 **6-48.1-9. Designated method for submission.**

24 (a) In order to comply with this chapter, in a form that is reasonably accessible to
25 consumers, a business collecting, maintaining or selling consumer personal information shall:

26 (1) Make available to consumers two (2) or more designated methods for submitting
27 requests for information required to be disclosed pursuant to this chapter, including, at a
28 minimum, a toll-free telephone number, and if the business maintains an Internet website, a
29 website address.

30 (2) Disclose and deliver the required information to a consumer free of charge within
31 forty-five (45) days of receiving a verifiable request from the consumer. The business shall
32 promptly take steps to determine whether the request is a verifiable request, but this shall not
33 extend the business' duty to disclose and deliver the information within forty-five (45) days of
34 receipt of the consumer's request. The time period to provide the required information may be

1 extended once by an additional forty-five (45) days when reasonably necessary, provided the
2 consumer is provided notice of the extension within the first forty-five (45) day period. The
3 disclosure shall cover the twelve (12) month period preceding the business' receipt of the
4 verifiable request and shall be made in writing and delivered through the consumer's account with
5 the business, if the consumer maintains an account with the business, or by mail or electronically
6 at the consumer's option if the consumer does not maintain an account with the business, in a
7 readily useable format that allows the consumer to transmit this information from one entity to
8 another entity without hindrance. The business shall not require the consumer to create an
9 account with the business in order to make a verifiable request.

10 **6-48.1-10. Internet webpage.**

11 A business that is required to comply with this chapter, in a form that is reasonably
12 accessible to consumers:

13 (1) Provide a clear and conspicuous link on the business' Internet homepage, titled "Do
14 Not Sell My Personal Information," to an Internet webpage that enables a consumer, or a person
15 authorized by the consumer, to opt out of the sale of the consumer's personal information. A
16 business shall not require a consumer to create an account in order to direct the business not to
17 sell the consumer's personal information.

18 (2) Include a description of a consumer's rights pursuant to this chapter, along with a
19 separate link to the "Do Not Sell My Personal Information" Internet webpage in:

20 (i) Its online privacy policy or policies if the business has an online privacy policy or
21 policies.

22 (ii) Any Rhode Island-specific description of consumers' privacy rights.

23 (3) Ensure that all individuals responsible for handling consumer inquiries about the
24 business' privacy practices or the business' compliance with this chapter are informed of all
25 requirements in this chapter and how to direct consumers to exercise their rights under those
26 sections.

27 (4) For consumers who exercise their right to opt out of the sale of their personal
28 information, refrain from selling personal information collected by the business about the
29 consumer.

30 (5) For a consumer who has opted out of the sale of the consumer's personal information,
31 respect the consumer's decision to opt out for at least twelve (12) months before requesting that
32 the consumer authorize the sale of the consumer's personal information.

33 (6) Use any personal information collected from the consumer in connection with the
34 submission of the consumer's opt-out request solely for the purposes of complying with the opt-

1 out request.

2 **6-48.1-11. Enforcement.**

3 (a)(1) Any consumer whose non-encrypted or non-redacted personal information is
4 subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business'
5 violation of the duty to implement and maintain reasonable security procedures and practices
6 appropriate to the nature of the information to protect the personal information may institute a
7 civil action for any of the following:

8 (i) To recover damages in an amount not less than one hundred dollars (\$100), and not
9 more than seven hundred fifty dollars (\$750) per consumer, per incident, or the consumer's actual
10 damages, whichever is greater;

11 (ii) Injunctive or declaratory relief;

12 (iii) Any other relief the court deems proper.

13 (2) In assessing the amount of damages under this section, the court shall consider any
14 one or more of the relevant circumstances presented by any of the parties to the case, including,
15 but not limited to:

16 (i) The nature and seriousness of the misconduct;

17 (ii) The number of violations;

18 (iii) The persistence of the misconduct;

19 (iv) The length of time over which the misconduct occurred;

20 (v) The willfulness of the defendant's misconduct; and

21 (vi) The defendant's assets, liabilities, and net worth.

22 (b) Actions pursuant to this section may be brought by a consumer if, prior to initiating
23 any action against a business for statutory damages on an individual or class-wide basis, unless
24 the consumer shall provide a business thirty (30) days' written notice identifying the specific
25 provisions of this chapter the consumer alleges have been or are being violated. In the event a
26 cure is possible, if within the thirty (30) days the business actually cures the noticed violation and
27 provides the consumer an express written statement that the violations have been cured and that
28 no further violations shall occur, no action for individual damages or class-wide damages may be
29 initiated against the business. No notice shall be required prior to an individual consumer
30 initiating an action solely for actual pecuniary damages suffered as a result of the alleged
31 violations of this chapter. If a business continues to violate this chapter in breach of the express
32 written statement provided to the consumer under this section, the consumer may initiate an
33 action against the business to enforce the written statement and may pursue statutory damages for
34 each breach of the express written statement, as well as any other violation of the chapter that

1 postdates the written statement.

2 (c) Nothing in this chapter shall be interpreted to serve as the basis for a private right of
3 action under any other law. This shall not be construed to relieve any party from any duties or
4 obligations imposed under chapter 49.3 of title 11.

5 **6-48.1-12. Public policy.**

6 Any provision of a contract or agreement of any kind that purports to waive or limit in
7 any way a consumer's rights under this chapter, including, but not limited to, any right to a
8 remedy or means of enforcement, shall be deemed contrary to public policy and shall be void and
9 unenforceable. This section shall not prevent a consumer from declining to request information
10 from a business, declining to opt out of a business' sale of the consumer's personal information, or
11 authorizing a business to sell the consumer's personal information after previously opting out.

12 SECTION 2. This act shall take effect upon passage.

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LC000789
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
CONSUMER PRIVACY PROTECTION

1 This act would create the "Consumer Privacy Protection Act." It would require
2 businesses that collect, maintain or sell personal information to notify consumers and would
3 disclose the information and the businesses' use of the information. The act would also provide
4 that consumers may opt out and have personal information deleted.

5 This act would take effect upon passage.

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