

# Fiscal Note

State of Alaska  
2022 Legislative Session

Bill Version: HB 159  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB159CS(L&C)-CIV-SL-3-11-22  
Title: CONSUMER DATA PRIVACY ACT  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: (H) Judiciary

Department: Department of Law  
Appropriation: Civil Division  
Allocation: Special Litigation  
OMB Component Number: 2213

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2023	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Services	1,518.1		1,518.1	1,518.1	1,518.1	1,518.1	1,518.1
Travel	2.8		2.8	2.8	2.8	2.8	2.8
Services	334.8		334.8	334.8	334.8	334.8	334.8
Commodities	23.1		23.1	23.1	23.1	23.1	23.1
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>1,878.8</b>	<b>0.0</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>

## Fund Source (Operating Only)

1004 Gen Fund (UGF)	1,878.8		1,878.8	879.1	879.1	879.1	879.1
1007 I/A Rcpts (Other)				999.7	999.7	999.7	999.7
<b>Total</b>	<b>1,878.8</b>	<b>0.0</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>	<b>1,878.8</b>

## Positions

Full-time	12.0		12.0	12.0	12.0	12.0	12.0
Part-time							
Temporary							

## Change in Revenues

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2022) cost:** 0.0 (separate supplemental appropriation required)

**Estimated CAPITAL (FY2023) cost:** 0.0 (separate capital appropriation required)

**Does the bill create or modify a new fund or account?** Yes  
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version/comments:

Amended to align with the changes contain in the House Labor & Commerce Committee Substitute including the addition of global privacy control, the removal of the exemption for non-profits, new provisions involving biometric data, and the imposition of a new fee on transactions of consumer data.

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Division:	Administrative Services Division	Date:	03/11/2022
Approved By:	Amber LeBlanc, Administrative Services Director	Date:	03/12/22
Agency:	Office of Management and Budget		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2022 LEGISLATIVE SESSION

BILL NO. HB 159

### Analysis

This bill creates the Consumer Data Privacy Act, giving consumers certain rights over their personal information, including biometric information, and creating obligations for some businesses that collect personal information. Under this Act, consumers have the right to object to the collection of biometric information; and to request that a business disclose what personal information the business collects or has collected within the five years preceding the date of the request, and what personal information is sold or disclosed for a business or commercial purpose. Consumers may opt out by requesting that the consumer's personal information not be sold by the business that collects it or request that personal information collected within the five years preceding the date of the request be deleted.

Under this Act, businesses that meet a required annual revenue or activity threshold have obligations to the consumers they serve. First, these businesses are obligated to notify customers in the state before the business collects personal information. The notification must include the categories of personal information, the purpose, and the right to opt-out. The information must be maintained and updated by the business and available to the public through the business' privacy policy or a webpage on the business' website. If a business provides others with the collected information for a business or commercial purpose, the business must record all recipients of the personal information.

This Act also creates a statutory process for a business to follow to respond to verified consumer requests to disclose or delete information. The process laid out includes required and suggested methods to submit a request, how information in the request may be used, the process to determine if a request is verified, and how information must be provided to the consumer, including confirmation that a deletion has occurred. A business must respond within 45 days of the request, and may be extended another 45 days after notifying the consumer if additional time is reasonably necessary. A business is prohibited from retaliating against a consumer that exercises any of their rights under this chapter, but may provide an incentive for allowing information to be collected, sold, or retained. A business is also responsible for implementing and maintaining reasonable security measures to protect the personal information the business collects.

Third-parties and services providers are also subject to limitations and are prohibited from certain disclosure or use of personal information collected and disclosed by a business. Likewise, if a business is subject to a merger or acquisition, the new parent business is responsible for the personal information and notifying consumers of any changes to the acquired business' policies.

The Act also establishes a fee for businesses that buy, sell, or share personal information. This fee totals 3% of the revenue created from those transactions. The proceeds of the fees are to be deposited into the Consumer Privacy Account created under the Act.

There are a number of exemptions to this Act, including protected health information, certain vehicle information, information relating to employment, and information subject to another law or legal privilege. A person may also disclose information in order to comply with a law or legal obligation, or cooperate with law enforcement. This bill creates civil penalties for violating this chapter. A violation of this Act is also considered a violation of the Unfair Trade Practices and Consumer Protection Act. The Department of Law is the agency responsible for implementing and enforcing the Consumer Data Privacy Act, as well as the Unfair Trade Practices and Consumer Protection Act. In addition to enforcing and investigating violations of this chapter, the Department of Law is also required to adopt and enforce regulations to implement this Act, and update some of these regulations as technology progresses.

Fees collected and funds recovered as a result of an action under this section may be appropriated to a consumer privacy account, for the Department of Law to offset costs incurred in connection with enforcing this chapter.

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In addition, the Act states the proceeds of the fund will be used pay the salaries of attorneys that enforce the Act at an amount that is competitive with the private sector. The Department of Law anticipates that the fund will generate funding in the future for the enforcement of this Act over the long-term.

Given the implementation of a new transaction-based fee, substantial increase to the categories of data protected, and the role of the Department of Law in the enforcement and regulation of consumer data, to implement this chapter the Department of Law anticipates that it will require five full-time litigation assistant positions to provide public education, review corporate privacy policies and online content to ensure compliance, assist with enforcement actions, and to assist with collection proceedings and appeals. The department will also require five full-time assistant attorney general positions to assist with drafting the implementing regulations, to facilitate compliance efforts, to advise and prosecute fee disputes and appeals, and to handle enforcement actions. In addition, the department will require two full-time law office assistants to provide support to the attorneys and litigation assistants. The Department of Law recognizes that other states with similar enacted legislation have far more robust sections devoted to this work, e.g. the state of California has over 35 attorney positions alone that are oriented to consumer privacy and data security. This fiscal note outlines a conservative estimate of the additional capacity required for the department to provide the new legal services and consumer protection enforcement actions that this legislation entails.

The Department of Law's attorney positions are partially-exempt and are subject to an approved salary schedule governed by statute. As such, the Department of Law can only provide estimates of personal services based on the approved salary schedule that applies to the executive branch's attorney job classes; the department is unable to provide estimates based on the stipulation present in the committee substitute that requires the department to provide for salaries that are competitive with the private sector. The new full-time positions would be located in the Civil Division and anticipated costs outside of direct personal services are allocated using the division's approved legal services billing rate allocations per relevant budget line. All dollar figures below are shown in thousands.

#### Personal Services

Five Attorney 4s (range 24, Anchorage) at \$166.3 each annually  
One Litigation Assistant 2 (range 19, Anchorage) at \$118.2 annually  
Four Litigation Assistant 1s (range 17, Anchorage) at \$105.7 each annually  
Two Law Office Assistant 1s (range 11, Anchorage) at \$72.8 each annually

#### Travel

Travel is estimated at \$2.8 per year total

#### Services

Services are estimated at \$334.8 annually for costs such as space, telephones, core service charges, litigation costs, and related expenses

#### Commodities

Supplies are estimated at \$23.1 per year total