

HB 159: The Consumer Data Privacy Act

House Labor & Commerce Committee
12/6/2021

Consumer Privacy & Consumer Rights

Governor's original bill introduced 4 basic consumer data rights to Alaskans:

- Right to know when businesses are collecting their personal information. (AS 45.48.800)
- Right to know what information is being collected, and with whom. (AS 45.48.830)
- Right to request collected personal information be deleted. (AS 45.48.825)
- Right to request their personal information not be sold or shared. (AS 45.48.835)

Personal Information: Shared, Bought and Sold

These rights flow from Article I, Sec 22 of the State Constitution:

“The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.” [Amended 1972]

Department of Law: *“In 2018, it was disclosed that Facebook has shared access to users' data with other tech firms, including Amazon, Apple, Microsoft, Netflix, and Spotify. Examples given by the New York Times include allowing others' products the ability to read users' private messages and to see the names, contact details, and activities of their friends....Facebook maintained they are not selling user data, but we must challenge that claim and ensure consumers can determine what is done with their personal data.”*

The information a consumer shares-knowingly or unknowingly- online creates thousands of data points showing often intimate details of a consumer or household, including health information, hobbies, religion, political views, personal loans, income, employment, political views, commercial preferences, age sex and gender-on almost any facet of daily life.

Personal Information: Shared, Bought and Sold (con't)

While data brokers insist that data in and of itself is anonymized or deidentified, specific information such as geolocation can be used to dramatically reduce anonymity-especially in combination with the thousands of other data points that may be attached to one consumer profile.

Once this information is collected, it can be bought, sold or shared; where it has been known to be used to:

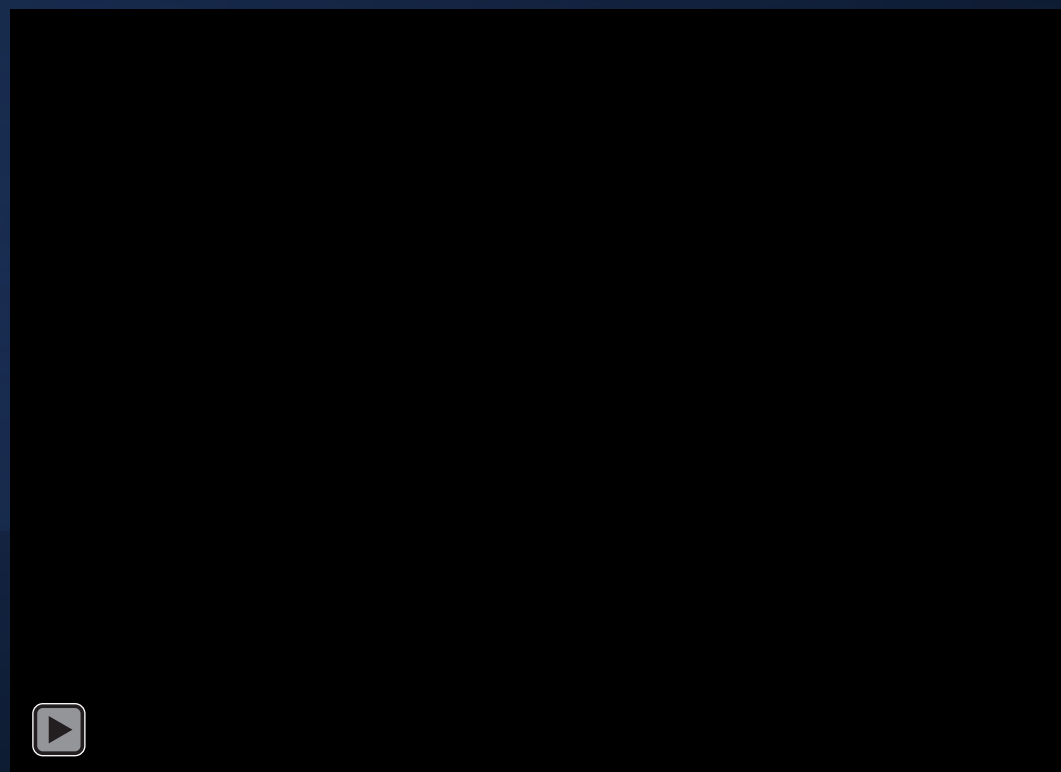
- Target high vulnerability audiences and markets such as seniors, tweens and teenagers;
- Perpetuate systematic racism in housing, lending, and deny coverage for certain types of insurance;
- Market pregnancy products to a consumer because numerous data points determine that they have a high chance of recently had sex, likely become pregnant, or changed sexual partners;
- Collect and market data of consumers, even if those consumers thought they had opted out of such data sharing;
- Collect precise geolocation data that can rapidly remove anonymity: In 2019, the NYT used one 2nd hand tranche of geolocation data to unmask numerous individuals, including journalists, Department of Defense officers, and software engineers interviewing at new firms.

Personal Information: Shared, Bought and Sold (con't)

Video: Courtesy of NYT, the Privacy
Project: [Twelve Million Phones,
One Dataset, Zero Privacy.](#)

Pictured: Senior Defense
Department official and his wife
identified at the Women's March,
Jan 21st, 2017.

Originally posted 12.19.2019



Changes btwn Ver A and Ver B

- Ver B added protections for and definitions of biometric information and identifiers; Sec 1-5 Consumers should have right to protect their DNA and biometric information from sale, share, or purchase without their consent.
- Expanded prohibition of use of consumer's data for secondary purposes beyond that which is reasonably necessary for the business for a service or activity that consumer originally consented or requested. *AS 45.48.805, p 8 line 27*
- Inclusion of global privacy control: this enables a consumer to request opt-out of selling their information and should be treated by all businesses and websites to easily follow. *AS 45.48.835, p 12 line 11*
- Explicit requirements for protection of data of minors, and teenagers: opt-in by parents/guardians for those under 13, and opt-in for those ages 13-18. *AS 45.48.845, p 13 line 22-24*
- Adapted business threshold to remove specific income amount, and changed to a percentage: now at 50% of income derived from selling consumer's information, and/or buys, sells, or shares data of 100,000 consumers or households. *AS 45.48.490, definitions; p 26 line 6*

Violations/Enforcement

- Like the original draft, the consumer retains a right to private action if their personal information is subjected to unauthorized access, destruction, use, modification or disclosure. (Best practice from other states)
- Establishes a Consumer Privacy Account in General Fund. This is funded in part by civil actions brought by attorney general, subject to appropriation by legislature. Purpose is to fund Dept of Law attorneys for enforcement and oversight.
- Requires businesses that meet legal threshold of collecting, sharing or selling personal information of 100,000 consumers or households (or 50% of their annual revenue from these activities) to register with DCCED as a data broker, and pay 3% fee of the revenue received by the business from the buying, sharing, or selling of the personal information of consumers or households to State for Consumer Privacy Account.

Questions?