

LC 392
2023 Regular Session
13700-007
6/27/22 (TSB/ps)

D R A F T

SUMMARY

Provides that data broker may not collect, sell or license brokered personal data within this state unless data broker first registers with Department of Consumer and Business Services. Specifies form, method and contents of application. Specifies exemptions. Provides civil penalty in amount not to exceed \$500 for each violation of Act or, for continuing violation, for each day in which violation continues. Caps amount of civil penalty at \$10,000 in calendar year.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to registration of business entities that qualify as data brokers; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) **As used in this section:**

5
6 (a) **“Brokered personal data” means any of the following comput-**
7 **erized data elements about a resident individual, if categorized or or-**
8 **ganized for sale or licensing to another person:**

9 (A) **The resident individual’s name or the name of a member of the**
10 **resident individual’s immediate family or household;**

11 (B) **The resident individual’s address or an address for a member**
12 **of the resident individual’s immediate family or household;**

13 (C) **The resident individual’s date or place of birth;**

14 (D) **The maiden name of the resident individual’s mother;**

15 (E) **Biometric information about the resident individual;**

16 (F) **The resident individual’s Social Security number or the number**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of any other government-issued identification for the resident indi-
2 vidual; or

3 (G) Other information that, alone or in combination with other in-
4 formation that is sold or licensed, can reasonably be associated with
5 the resident individual.

6 (b)(A) “Business entity” means:

7 (i) A resident individual who regularly engages in commercial ac-
8 tivity for the purpose of generating income;

9 (ii) A corporation or nonprofit corporation, limited liability com-
10 pany, partnership or limited liability partnership, business trust, joint
11 venture or other form of business organization the constituent parts
12 of which share a common economic interest;

13 (iii) A financial institution, as defined in ORS 706.008; or

14 (iv) Another person that controls, is controlled by or is under
15 common control with a person described in sub-subparagraphs (ii) and
16 (iii) of this subparagraph.

17 (B) “Business entity” does not include the state or a state agency,
18 a local government, as defined in ORS 174.116, or a business entity or
19 other person during a period in which the business entity or person is
20 acting solely on behalf of and at the direction of the state, a state
21 agency or the local government.

22 (c)(A) “Data broker” means a business entity or part of a business
23 entity that collects and sells or licenses brokered personal data to an-
24 other person.

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

26 (i) A consumer reporting agency, as defined in 15 U.S.C. 1681a(f),
27 a person that furnishes information to a consumer reporting agency,
28 as provided in 15 U.S.C. 1681s-2, or a user of a consumer report, as
29 defined in 15 U.S.C. 1681a(d), to the extent that the consumer reporting
30 agency, the person that furnishes information to a consumer reporting
31 agency or the user of a consumer report engages in activities that are

1 **subject to regulation under the federal Fair Credit Reporting Act, 15**
2 **U.S.C. 1681 et seq.;**

3 **(ii) A financial institution, an affiliate or a nonaffiliated third**
4 **party, as those terms are defined in 15 U.S.C. 6809, to the extent that**
5 **the financial institution, affiliate or nonaffiliated third party is subject**
6 **to regulation under Title V of the Gramm-Leach-Bliley Act, 15 U.S.C.**
7 **6801 to 6809, and regulations adopted under Title V of the Gramm-**
8 **Leach-Bliley Act;**

9 **(iii) A business entity that collects information about a resident**
10 **individual if the resident individual is or was:**

11 **(I) A customer, subscriber or user of the business entity's goods or**
12 **services;**

13 **(II) An employee or agent of the business entity or is in a contrac-**
14 **tual relationship with the business entity;**

15 **(III) An investor in the business entity;**

16 **(IV) A donor to the business entity; or**

17 **(V) In another relationship with the business entity the nature of**
18 **which is similar to the relationships described in this sub-**
19 **subparagraph; or**

20 **(iv) A business entity that performs services for, acts on behalf of**
21 **or acts as an agent of a business entity described in sub-subparagraph**
22 **(iii) of this subparagraph.**

23 **(d) "Resident individual" means a natural person who resides in this**
24 **state.**

25 **(2)(a) Except as provided in paragraph (b) of this subsection, a data**
26 **broker may not collect, sell or license brokered personal data within**
27 **this state unless the data broker first registers with the Department**
28 **of Consumer and Business Services as provided in subsection (3) of this**
29 **section.**

30 **(b) A data broker may collect, sell or license brokered personal data**
31 **without registering with the department if the collection, sale or li-**

1 censing involves only:

2 (A) Providing publicly available information that is related to a
3 resident individual's business or profession;

4 (B) Providing publicly available information as part of a service
5 that provides alerts for health or safety purposes;

6 (C) Providing information that is lawfully available from federal,
7 state or local government records;

8 (D) Publishing, selling, reselling, distributing or providing digital
9 access to journals, books, periodicals, newspapers, magazines, news
10 media or educational, academic or instructional works;

11 (E) Developing or maintaining an electronic commerce service or
12 software;

13 (F) Providing directory assistance or directory information services
14 as, or on behalf of, a telecommunications carrier; or

15 (G) Selling the assets of a business entity or a part of a business
16 entity a single time, or only occasionally, as part of a transfer of
17 control over the assets that is not part of the ordinary conduct of the
18 business entity or a part of the business entity.

19 (3) To register with the department, a data broker shall:

20 (a) Submit on a form and in a format the department specifies:

21 (A) The name of the data broker;

22 (B) The street address and telephone number of the data broker;

23 and

24 (C) The data broker's primary website and electronic mail address.

25 (b) Pay a fee in an amount the department specifies by rule. The
26 department shall set the fee in an amount that is sufficient, when
27 aggregated, to pay the costs of administering the registration pro-
28 gram.

29 (c) Include with the application form a declaration in which the
30 data broker:

31 (A) States whether resident individuals may opt out of all or a

1 portion of the data broker's collection, sale or licensing of the resident
2 individuals' brokered personal data;

3 (B) Identifies which of the data broker's activities of collecting,
4 selling or licensing brokered personal data a resident individual may
5 opt out of or which portion of the resident individual's brokered per-
6 sonal data the resident individual may opt out of providing or per-
7 mitting the data broker to collect, sell or license;

8 (C) Describes the method by which a resident individual may exer-
9 cise the choices described in subparagraphs (A) and (B) of this para-
10 graph; and

11 (D) States whether a resident individual may authorize another
12 person to exercise the choice described in subparagraph (A) of this
13 paragraph on the resident individual's behalf and, if so, how to do so.

14 (4) If a data broker complies with the requirements set forth in
15 subsection (3) of this section, the department shall approve the regis-
16 tration. A registration under this section is valid until December 31
17 of the year in which the department approves the registration.

18 (5) The department may approve and renew a registration under
19 this section by means of an agreement with the Nationwide Multistate
20 Licensing System and may, by rule, conform the practices, procedures
21 and information that the department uses to approve or renew a reg-
22 istration to the requirements of the Nationwide Multistate Licensing
23 System.

24 (6) The department shall make the information that business enti-
25 ties submit for registration under this section publicly available on or
26 by means of the department's website.

27 (7)(a) The department may impose a civil penalty:

28 (A) In an amount that does not exceed \$500 for each of a data
29 broker's violations of a requirement under this section or each vio-
30 lation of a rule the department adopted under this section; or

31 (B) In the case of a continuing violation, in the amount of \$500 for

1 each day in which the violation continues.

2 (b) The total amount of penalties that the department imposes on
3 a data broker may not exceed \$10,000 during any calendar year.

4 (8) The department may adopt rules that are necessary to imple-
5 ment the provisions of this section.

6 SECTION 2. (1) Section 1 of this 2023 Act becomes operative on
7 January 1, 2024.

8 (2) The Director of the Department of Consumer and Business Ser-
9 vices may adopt rules and take any other action before the operative
10 date specified in subsection (1) of this section that is necessary to en-
11 able the director to undertake and exercise all of the duties, functions
12 and powers conferred on the director by section 1 of this 2023 Act.

13 SECTION 3. This 2023 Act being necessary for the immediate pres-
14 ervation of the public peace, health and safety, an emergency is de-
15 clared to exist, and this 2023 Act takes effect on its passage.

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