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## DIGEST

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HB 617 Original

2020 Regular Session

Thompson

**Abstract:** Requires certain operators of websites to establish and maintain a mechanism by which a consumer may direct the operator not to sell any personally identifiable information the operator has collected about the consumer through the website; the operator, after receiving the request, cannot sell the consumer's information and must notify the consumer.

Proposed law prohibits a person from using any public record, that contains personally identifiable information of a resident of the state, to market or solicit the sale of products or services to the resident without his consent.

Proposed law requires affirmative consent to be given by the resident, by electronic or paper notification, to share the information with a third party before the information is used.

Proposed law defines "consumer", "covered information", "designated request address", "operator", "sale", and "verified request".

Proposed law requires each operator to establish a designated request address through which a consumer may submit a verified request.

Proposed law allows a consumer to submit a verified request directing the operator not to make any sale of any covered information about the consumer.

Proposed law prohibits an operator, who has received a verified request submitted by a consumer, from making any sale of any covered information the operator has collected or will collect about the consumer.

Proposed law requires an operator to respond to a verified request submitted by a consumer within 60 days of the request being submitted.

Proposed law allows an operator to extend the 60 day period provided for in proposed law by up to 30 days, if the operator determines that an extension is reasonably necessary.

Proposed law requires an operator who utilizes the extension provided for in proposed law to notify the consumer of the extension.

Proposed law requires an operator to make available to consumers, whose covered information is collected through the operator's website, a notice providing the following:

- (1) Identification of the categories of covered information that the operator collects through its website or online service about consumers who visit or use the website or online service, and the categories of third parties who the operator may share the information with.
- (2) A description of the process, if applicable, for a consumer who visits the website or online service to review and request changes to any of his or her covered information that is collected through the website or online service.
- (3) A description of the process by which the operator notifies consumers who use or visit the website or online service of material changes to the notice.
- (4) A disclosure of whether or not a third party may collect covered information about a consumer's online activities over time and across different websites or online services when the consumer uses the operator's website or online services.
- (5) The effective date of the notice.

Proposed law does not apply to an operator who meets all of the following criteria:

- (1) The operator is located in this state.
- (2) The operator's revenue is derived primarily from a source other than the sale or lease of goods, services, or credit on websites or online services.
- (3) The operator's website or online service has fewer than 20,000 unique visitors per year.

Proposed law allows an operator to remedy any failure to comply with proposed law within 30 days after being informed of the failure.

An operator violates proposed law if the operator does any of the following:

- (1) Knowingly and willfully fails to remedy a failure to comply within 30 days after being informed of the failure.
- (2) Makes available a notice, which constitutes a knowing and material misrepresentation or omission, that is likely to mislead a consumer, acting reasonably under the circumstances, to the detriment of the consumer.

Proposed law requires office of consumer protection, within the Department of Justice, to adopt rules to enforce proposed law.

Proposed law allows the office of consumer protection, to institute an appropriate legal proceeding, if it is reasonably believed that an operator has, directly or indirectly, violated proposed law.

Proposed law allows the district court, upon a showing that an operator has directly or indirectly

violated this proposed law to do either of the following:

- (1) Issue a temporary or permanent injunction.
- (2) Impose a civil penalty not to exceed \$5,000 for each violation.

Proposed law does not establish a private right of action against an operator.

Proposed law is not exclusive and is in addition to any other remedies in present law.

(Adds R.S. 44:42 and R.S. 45:844.91)