

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 59.1-578 of the Code of Virginia, relating to Consumer Data Protection Act;*
 3 *data controller responsibilities; precise geolocation data.*

4 [S 338]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 59.1-578 of the Code of Virginia is amended and reenacted as follows:**8 **§ 59.1-578. Data controller responsibilities; transparency.**

9 A. A controller shall:

10 1. Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation
11 to the purposes for which such data is processed, as disclosed to the consumer;12 2. Except as otherwise provided in this chapter, not process personal data for purposes that are neither
13 reasonably necessary to nor compatible with the disclosed purposes for which such personal data is
14 processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;15 3. Establish, implement, and maintain reasonable administrative, technical, and physical data security
16 practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security
17 practices shall be appropriate to the volume and nature of the personal data at issue;18 4. Not process personal data in violation of state and federal laws that prohibit unlawful discrimination
19 against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer
20 rights contained in this chapter, including denying goods or services, charging different prices or rates for
21 goods or services, or providing a different level of quality of goods and services to the consumer. However,
22 nothing in this subdivision shall be construed to require a controller to provide a product or service that
23 requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a
24 controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer,
25 including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to
26 § 59.1-577 or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards,
27 premium features, discounts, or club card program; ~~and~~28 5. Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the
29 case of the processing of sensitive data concerning a known child, without processing such data in accordance
30 with the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.); *and*31 *6. Not sell or offer for sale precise geolocation data concerning a consumer.*32 B. Any provision of a contract or agreement of any kind that purports to waive or limit in any way
33 consumer rights pursuant to § 59.1-577 shall be deemed contrary to public policy and shall be void and
34 unenforceable.35 C. Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice
36 that includes:

37 1. The categories of personal data processed by the controller;

38 2. The purpose for processing personal data;

39 3. How consumers may exercise their consumer rights pursuant § 59.1-577, including how a consumer
40 may appeal a controller's decision with regard to the consumer's request;

41 4. The categories of personal data that the controller shares with third parties, if any; and

42 5. The categories of third parties, if any, with whom the controller shares personal data.

43 D. If a controller sells personal data to third parties or processes personal data for targeted advertising, the
44 controller shall clearly and conspicuously disclose such processing, as well as the manner in which a
45 consumer may exercise the right to opt out of such processing.46 E. A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable
47 means for consumers to submit a request to exercise their consumer rights under this chapter. Such means
48 shall take into account the ways in which consumers normally interact with the controller, the need for secure
49 and reliable communication of such requests, and the ability of the controller to authenticate the identity of
50 the consumer making the request. Controllers shall not require a consumer to create a new account in order to
51 exercise consumer rights pursuant to § 59.1-577 but may require a consumer to use an existing account.52 F. 1. Subject to the consent requirement established by subdivision 3, no controller shall process any
53 personal data collected from a known child:54 a. For the purposes of (i) targeted advertising, (ii) the sale of such personal data, or (iii) profiling in
55 furtherance of decisions that produce legal or similarly significant effects concerning a consumer;

56 b. Unless such processing is reasonably necessary to provide the online service, product, or feature;

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57 c. For any processing purpose other than the processing purpose that the controller disclosed at the time
58 such controller collected such personal data or that is reasonably necessary for and compatible with such
59 disclosed purpose; or

60 d. For longer than is reasonably necessary to provide the online service, product, or feature.

61 2. Subject to the consent requirement established by subdivision 3, no controller shall collect precise
62 geolocation data from a known child unless (i) such precise geolocation data is reasonably necessary for the
63 controller to provide an online service, product, or feature and, if such data is necessary to provide such
64 online service, product, or feature, such controller shall only collect such data for the time necessary to
65 provide such online service, product, or feature and (ii) the controller provides to the known child a signal
66 indicating that such controller is collecting such precise geolocation data, which signal shall be available to
67 such known child for the entire duration of such collection.

68 3. No controller shall engage in the activities described in subdivisions 1 or 2 unless the controller obtains
69 consent from the child's parent or legal guardian in accordance with the federal Children's Online Privacy
70 Protection Act (15 U.S.C. § 6501 et seq.).