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SENATE BILL NO. 615

Offered January 14, 2026

A BILL to amend and reenact § 59.1-575 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-577.2, relating to Consumer Data Protection Act; online device pricing; prohibition.

Patron—Pekarsky

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-575 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-577.2 as follows:

§ 59.1-575. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affiliate" means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, "control" or "controlled" means (i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company; (ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or (iii) the power to exercise controlling influence over the management of a company.

"Authenticate" means verifying through reasonable means that the consumer, entitled to exercise his consumer rights in § 59.1-577, is the same consumer exercising such consumer rights with respect to the personal data at issue.

"Biometric data" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics, that is used to identify a specific individual. "Biometric data" does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

"Business associate" means the same meaning as the term established by HIPAA.

"Child" means any natural person younger than 13 years of age.

"Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to process personal data relating to the consumer. "Consent" may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action.

"Consumer" means a natural person who is a resident of the Commonwealth acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.

"Consumer transaction" means the same as that term is defined in § 59.1-198.

"Controller" means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.

"Coupon" means any method by which a consumer receives a discount on the purchase of any item that is funded, produced, sponsored, promoted, or furnished, either directly or indirectly, by a business, including a paper coupon, a digital coupon, or an instant redeemable coupon.

"Covered entity" means the same as the term is established by HIPAA.

"Decisions that produce legal or similarly significant effects concerning a consumer" means a decision made by the controller that results in the provision or denial by the controller of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

"De-identified data" means data that cannot reasonably be linked to an identified or identifiable natural person, or a device linked to such person. A controller that possesses "de-identified data" shall comply with the requirements of subsection A of § 59.1-581.

"Discount" means any reduction from the regular or advertised price offered to consumers on a temporary or conditional basis.

"Hardware state" means a condition or mode of existence of a system, component, or simulation, including battery life, number of wireless connections detected, hardware performance characteristics, age of the device, data that is erased when an online device is restarted or powered down, and data that is retained when an online device is restarted or powered down.

"Health record" means the same as that term is defined in § 32.1-127.1:03.

"Health care provider" means the same as that term is defined in § 32.1-276.3.

"HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §

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1320d et seq.).

"Identified or identifiable natural person" means a person who can be readily identified, directly or indirectly.

"Institution of higher education" means a public institution and private institution of higher education, as those terms are defined in § 23.1-100.

"Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of the Internal Revenue Code, any political organization, any organization exempt from taxation under § 501(c)(4) of the Internal Revenue Code that is identified in § 52-41, and any subsidiary or affiliate of entities organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

"Online device" means a physical object that has built-in resources that allow it to communicate through the internet or a short-range wireless technology and react to interface conditions, including a laptop computer, tablet, phone, or other smart hardware.

"Online service, product, or feature" means any service, product, or feature that is provided online. "Online service, product, or feature" does not include telecommunications service, as defined in 47 U.S.C. § 153, broadband Internet access service, as defined in 47 C.F.R. § 54.400, or delivery or use of a physical product.

"Parent" means a parent or legal guardian of a child or minor.

"Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include de-identified data or publicly available information.

"Political organization" means a party, committee, association, fund, or other organization, whether or not incorporated, organized and operated primarily for the purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization or the election of a presidential/vice-presidential elector, whether or not such individual or elector is selected, nominated, elected, or appointed.

"Precise geolocation data" means information derived from technology, including ~~but not limited to~~ global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a natural person with precision and accuracy within a radius of 1,750 feet. "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

"Process" or "processing" means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

"Processor" means a natural or legal entity that processes personal data on behalf of a controller.

"Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

"Protected health information" means the same as the term is established by HIPAA.

"Pseudonymous data" means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

"Publicly available information" means information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

"Sale of personal data" means the exchange of personal data for monetary consideration by the controller to a third party. "Sale of personal data" does not include:

1. The disclosure of personal data to a processor that processes the personal data on behalf of the controller;

2. The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

3. The disclosure or transfer of personal data to an affiliate of the controller;

4. The disclosure of information that the consumer (i) intentionally made available to the general public via a channel of mass media and (ii) did not restrict to a specific audience; or

5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

"Sensitive data" means a category of personal data that includes:

1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status;

2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

3. The personal data collected from a known child; or

4. Precise geolocation data.

"Social media platform" means a public or semipublic Internet-based service or application that has users in the Commonwealth and that meets the following criteria:

1. Connects users in order to allow users to interact socially with each other within such service or application. No service or application that exclusively provides email or direct messaging services shall be considered to meet this criterion on the basis of that function alone; and

2. Allows users to do all of the following:

a. Construct a public or semipublic profile for purposes of signing into and using such service or application;

b. Populate a public list of other users with whom such user shares a social connection within such service or application; and

c. Create or post content viewable by other users, including content on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users. No service or application that consists primarily of news, sports, entertainment, ecommerce, or content preselected by the provider and not generated by users, and for which any chat, comments, or interactive functionality is incidental to, directly related to, or dependent on the provision of such content, or that is for interactive gaming, shall be considered to meet this criterion on the basis of that function alone.

"State agency" means the same as that term is defined in § 2.2-307.

"Targeted advertising" means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. "Targeted advertising" does not include:

1. Advertisements based on activities within a controller's own websites or online applications;

2. Advertisements based on the context of a consumer's current search query, visit to a website, or online application;

3. Advertisements directed to a consumer in response to the consumer's request for information or feedback; or

4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or frequency.

"Third party" means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

"User" means a person not acting as an agent of a controller or processor.

§ 59.1-577.2. Online device pricing; prohibition.

A. No controller or processor shall, in connection with a consumer transaction, generate, in whole or in part, a price offered to a consumer through the consumer's online device based on any of the following input data:

1. The hardware or hardware state of the online device;

2. The presence or absence of any software on the online device; or

3. Precise geolocation data of the online device when used to set a price based on inferences about the consumer made from such data.

B. Nothing in this section shall prohibit:

1. The generation of a price offered to a consumer through the consumer's online device based on the hardware or hardware state of the online device for (i) repairs or maintenance of the online device or (ii) calculating the trade-in value of the online device;

2. The use of precise geolocation data of a consumer's online device to generate a price offered to the consumer based on (i) the real-time demand for the product or service in the consumer's vicinity, if the product or service is provided immediately upon request, or (ii) price variances at different physical locations due to legitimate cost differentials associated with providing a good or service to different consumers, including state or local government taxes, duties, or other fees imposed by a state or local government on the transaction; or

3. Any coupon, discount, or other bona fide rebate, sale, or promotion that is separate from the price, reduces the price of goods or services, is issued or offered to the general public on the same terms, and does not incorporate input data as specified in subsection A.