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SYNOPSIS
Requires Internet service providers to keep confidential subscriber’s personally identifiable information unless subscriber authorizes Internet service provider in writing or email to disclose information; prohibits subscriber penalty.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning Internet service providers and personally identifiable information and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENacted by the Senate and General Assembly of the State of New Jersey:

1. As used in P.L. ___, c. ___ (pending before the Legislature as this bill):
   “Internet service provider” means a person, business, or organization qualified to do business in this State that provides individuals, businesses, or other entities with the ability to connect by wireline or radio frequency to the Internet through equipment that is located in this State.

   “Ordinary course of business” means debt-collection activities, order fulfillment, request processing, or the transfer of ownership, and advertising services to the subscriber by the Internet service provider.

   “Personally identifiable information” means any information that personally identifies, describes, or is able to be associated with a subscriber or users of a subscriber’s account, including, but not limited to:

   an individual’s name, address, or telephone number;
   information pertaining to creditworthiness, assets, income, or liabilities;
   age or date of birth;
   names of children;
   the age or gender of children;
   height or weight;
   race, religion, or occupation;
   educational history;
   political party affiliation;
   medical conditions;
   drugs, therapies, or medical products or equipment used;
   product information concerning what the subscriber purchased, leased, or rented;
   real property purchased, leased, or rented;
   social security number;
   bank or investment account number or balances;
   credit or debit card number or balance;
   debt payment history;
   Internet searches; or
   Web browser cache.

   “Subscriber” means a residential or business subscriber located in this State that subscribes with an Internet service provider to receive access to the Internet on equipment located in the State.
2. a. An Internet service provider shall keep confidential a subscriber’s personally identifiable information unless the subscriber, expressly and in writing or by email, authorizes the Internet service provider to disclose this information.

   b. An Internet service provider shall provide written notice of the requirements of this section to each subscriber.

   c. An Internet service provider shall not add a supplemental charge or penalize a subscriber either financially or in quality or speed of delivery of service for choosing not to authorize the disclosure of personally identifiable information.

   d. The requirements of subsection a. of this section shall not apply to disclosures incidental to the ordinary course of business of the Internet service provider or investigations undertaken pursuant to the "New Jersey Wiretapping and Electronic Surveillance Control Act," P.L.1968, c. 409 (C.2A:156A-1 et seq.).

3. A waiver of the requirements, or an agreement that does not comply with, the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be void and unenforceable.

4. It shall be an unlawful practice and violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill).

5. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

6. This act shall take effect immediately.

STATEMENT

This bill requires an Internet service provider (ISP) to keep confidential a subscriber’s personally identifiable information unless the subscriber, expressly and in writing or by email, authorizes the ISP to disclose this information. An ISP is required to provide written notice of this bill’s requirements to each subscriber. An ISP is not to add a supplemental charge or penalize a subscriber either financially or in quality or speed of delivery of service for choosing not to authorize the disclosure of personally identifiable information.

The provisions of this bill do not apply to disclosures incidental to the ISP’s ordinary course of business or to investigations
undertaken pursuant to the “New Jersey Wiretapping and Electronic
Surveillance Control Act.”

This bill provides that a violation of this bill is to be an unlawful
practice in accordance with the State’s Consumer Fraud Act.

In this bill, “personally identifiable information” means any
information that personally identifies, describes, or is able to be
associated with a subscriber or users of a subscriber’s account,
including, but not limited to, several examples listed in this bill.

This bill also provides that “subscriber” means a residential or
business subscriber located in this State that subscribes with an
Internet service provider to receive access to the Internet on
equipment located in the State.