SYNOPSIS

Requires Internet service providers to keep confidential and prohibit any disclosure, sale, or unauthorized access to subscriber’s personally identifiable information unless subscriber authorizes Internet service provider in writing to disclose information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 10/10/2022)
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. (C. ) (pending before the Legislature as this bill):
   “Internet protocol” means a communications protocol that enables an Internet end user to send or receive a communication over the Internet, regardless of whether the communication is voice, data, or video.
   “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, cellular, or other wireless telecommunications infrastructure to the Internet using any technology through equipment that is located in this State.
   “Online service” means an information service provided over the Internet, including, but not limited to, offsite data storage services and computer application services.
   “Ordinary course of business” means debt-collection activities, order fulfillment, request processing, 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:
      name, address, precise geolocation, social security number, or telephone number;
      requests for specific materials or services from an Internet service provider;
      Internet protocol addresses or information concerning the access or use of online services;
      information identifying a device that is used primarily or exclusively by the subscriber or users of the subscriber’s account;
      financial or billing information;
      demographic data;
      medical information;
      Internet browser cache or history;
      the contents of a subscriber’s communications or data-storage devices; or
      any information pertaining to children.
   “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 and prohibit any disclosure, sale, or unauthorized access of a subscriber’s personally identifiable information unless the subscriber, expressly and in writing, authorizes the Internet service provider to disclose this information, which the subscriber may revoke, in writing, at any time.

b. An Internet service provider shall provide written notice of the requirements of this section to each subscriber when the subscriber applies with the Internet service provider for service and when the subscriber renews a contract for service. The written notice shall be in a 12-point, boldface font on a form separate from the contract for service, as determined by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, and electronic notice shall be made available to the public on the Internet service provider’s Internet website.

c. An Internet service provider shall not refuse to provide Internet service or 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:

   (1) disclosures incidental to the ordinary course of business of the Internet service provider;

   (2) compliance with a court order;

   (3) protecting the rights and property of the Internet service provider, or to protect subscribers, users of the subscriber’s account, and other Internet service providers from fraudulent, abusive, or unlawful use of Internet service;

   (4) providing location information to a public safety answering point, emergency medical service providers, police or other emergency responders in order to respond to a call for emergency services;

   (5) informing a legal guardian or immediate family member of the location of a user of the subscriber’s account who is under the age of 18 in an emergency situation that involves the risk of death or serious physical harm; and


3. A waiver of the requirements of, 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).
A2029 BENSON, MORIARTY

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 and prohibit any disclosure, sale, or unauthorized access of a subscriber’s personally identifiable information unless the subscriber, expressly and in writing, authorizes the ISP to disclose this information, which the subscriber may revoke, in writing, at any time. An ISP is to provide written notice of these requirements to each subscriber when the subscriber applies with the ISP for service and when the subscriber renews a contract for service. The written notice is to be in a 12-point, boldface font on a form separate from the contract for service, as determined by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, and electronic notice is to be made available to the public on the ISP’s Internet website.

Under the bill, an ISP is not to refuse to provide Internet service or 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 requirements of this bill are not to apply to: 1) disclosures incidental to the ordinary course of business of the ISP; 2) compliance with a court order; 3) protecting the rights and property of the ISP, or to protect subscribers, users of the subscriber’s account, and other ISPs from fraudulent, abusive, or unlawful use of Internet service; 4) providing location information to a public safety answering point, emergency medical service providers, police or other emergency responders in order to respond to a call for emergency services; 5) informing a legal guardian or immediate family member of the location of a user of the subscriber’s account who is under the age of 18 in an emergency situation that involves the risk of death or serious physical harm; 6) and investigations undertaken pursuant to the “New Jersey Wiretapping and Electronic Surveillance Control Act.”