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Retrieved and verified: 2026-08-22

Maryland SB 541 Chapter 455

https://mgaleg.maryland.gov/2024RS/chapters_noln/Ch_455_sb0541E.pdf

Title: 2024 Regular Session - Senate Bill 541 Chapter

URL Source: https://mgaleg.maryland.gov/2024RS/chapters_noln/Ch_455_sb0541E.pdf

Published Time: Wed, 15 May 2024 18:13:12 GMT

Number of Pages: 37

Markdown Content:

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Chapter 455

(Senate Bill 541)

AN ACT concerning

Maryland Online Data Privacy Act of 2024

FOR the purpose of regulating the manner in which a controller or a processor in possession of a consumer's personal data may process the consumer's personal data; authorizing a consumer to exercise certain rights in regards to the consumer's personal data ; requiring a controller of personal data to establish a method for a consumer to exercise certain rights in regards to the consumer's personal data; requiring a controller to comply with a request by a consumer to exercise a certain right in a certain man ner, except under certain circumstances; authorizing a consumer to designate an authorized agent to act on the consumer's behalf to opt out of the processing of the consumer's personal data; requiring a controller to provide a consumer with a certain priva cy notice; requiring a controller that uses a processor to process the personal data of consumers to enter into a contract with the processor that governs the processor's data processing procedures; requiring a controller to conduct and document a data pro tection assessment for consumer data processing activities that present a heightened risk of harm to a consumer; making a violation of this Act an unfair, abusive, or deceptive trade practice that is subject to enforcement and penalties under the Maryland Consumer Protection Act; and generally relating to online data privacy.

BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13 -301(14)(xi)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article - Commercial Law

Section 13 -301(14)(xli)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article - Commercial Law

Section 13 -301(14)(xlii); and 14 -4601 through 14 -4613 14 -4614 to be under the new subtitle "Subtitle 46. Online Data Privacy Act"

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read a s follows: Ch. 455 2024 LAWS OF MARYLAND

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Article - Commercial Law

13 -301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xi) Title 14, Subtitle 13 of the Public Safety Article; [or]

(xlii) Title 14, Subtitle 45 of this article; or

(XLII) TITLE 14, SUBTITLE 46 OF THIS ARTICLE ; OR SUBTITLE 46. ONLINE DATA PRIVACY ACT .

14 -4601.

**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED .**

**(B) "A FFILIATE " MEANS A PERSON THAT , DIRECTLY OR INDIRECT LY
THROUGH ONE OR MORE INTERMED IARIES , CONTROLS , IS CONTROLLED BY , OR IS
UNDER COMMON CONTROL WITH ANOTHER PERSON , SUCH THAT THE PERSON :**

(1) SHARES COMMON BRANDIN G WITH ANOTHER PERSO N; OR

**(2) CONTROLS , IS CONTROLLED BY , OR IS UNDER COMMON C ONTROL
WITH ANOTHER P ERSON .**

**(1) OWNS OR HAS THE POWER TO VOTE MORE THAN 50% OF THE
OUTSTANDING SHARES O F ANY VOTING CLASS O F THE OTHER PERSON 'S SECURITIES ;**

**(2) HAS THE POWER TO ELEC T OR INFLUENCE THE E LECTION OF A
MAJORITY OF THE DIRE CTORS , MEMBERS , OR MANAGERS OF THE O THER PERSON ;**

**(3) HAS THE POWER TO DIRE CT THE MANAGEMENT OF THE OTHER
PERSON ; OR**

(4) IS SUBJECT TO THE OTHER PERSON'S EXERCISE OF THE POWERS

DESCRIBED IN ITEM (1), (2), OR (3) OF THIS SUBSECTION. WES MOORE, Governor Ch. 455

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(C) "AUTHENTICATE" MEANS TO USE REASONABLE MEANS TO DETERMINE

THAT A REQUEST TO EXERCISE A CONSUMER RIGHT IN ACCORDANCE WITH §

14-4605 OF THIS SUBTITLE IS BEING MADE BY, OR ON BEHALF OF, A CONSUMER WHO

IS ENTITLED TO EXERCISE THE CONSUMER RIGHT WITH RESPECT TO THE PERSONAL DATA AT ISSUE.

(D) (1) "BIOMETRIC DATA" MEANS DATA GENERATED BY AUTOMATIC

MEASUREMENTS OF THE BIOLOGICAL CHARACTERISTICS OF A CONSUMER THAT CAN BE USED TO UNIQUELY AUTHENTICATE A CONSUMER'S IDENTITY.

(2) "BIOMETRIC DATA" INCLUDES:

(I) A FINGERPRINT;

(II) A VOICE PRINT;

(III) AN EYE RETINA OR IRIS IMAGE; AND

(IV) ANY OTHER UNIQUE BIOLOGICAL CHARACTERISTICS THAT

CAN BE USED TO UNIQUELY AUTHENTICATE A CONSUMER'S IDENTITY.

(3) "BIOMETRIC DATA" DOES NOT INCLUDE:

(I) A DIGITAL OR PHYSICAL PHOTOGRAPH;

(II) AN AUDIO OR VIDEO RECORDING; OR

(III) ANY DATA GENERATED FROM A DIGITAL OR PHYSICAL

PHOTOGRAPH OR AN AUDIO OR VIDEO RECORDING, UNLESS THE DATA IS GENERATED TO IDENTIFY A SPECIFIC CONSUMER.

(E) "BUSINESS ASSOCIATE" HAS THE MEANING STATED IN HIPAA.

(F) "CHILD" HAS THE MEANING STATED IN COPPA.

(G) (1) "CONSENT" MEANS A CLEAR AFFIRMATIVE ACT SIGNIFYING A

CONSUMER'S FREELY GIVEN, SPECIFIC, INFORMED, AND UNAMBIGUOUS

AGREEMENT TO ALLOW THE PROCESSING OF PERSONAL DATA RELATING TO THE
CONSUMER FOR A PARTICULAR PURPOSE .

(2) "CONSENT " INCLUDES :

(I) A WRITTEN STATEMENT ;Ch. 455 2024 LAWS OF MARYLAND

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(II) A WRITTEN STATEMENT BY ELECTRONIC MEANS ; OR

(III) ANY OTHER UNAMBIGUOUS AFFIRMATIVE ACTION .

(3) "CONSENT " DOES NOT INCLUDE :

(I) ACCEPTANCE OF A GENERAL OR BROAD TERMS OF USE OR

SIMILAR DOCUMENT THAT CONTAINS DESCRIPTIONS OF PERSONAL DATA
PROCESSING ALONG WITH OTHER UNRELATED INFORMATION ;

(II) HOVERING OVER , MUTING , PAUSING , OR CLOSING A PIECE

OF CONTENT ; OR

(III) AGREEMENT OBTAINED THROUGH THE USE OF DARK

PATTERNS .

**(H) (1) "CONSUMER " MEANS AN INDIVIDUAL WHO IS A RESIDENT OF
THE**

STATE .

(2) "CONSUMER " DOES NOT INCLUDE :

(I) AN INDIVIDUAL ACTING IN A COMMERCIAL OR

EMPLOYMENT CONTEXT ; OR

(II) AN INDIVIDUAL ACTING AS AN EMPLOYEE , AN OWNER , A

DIRECTOR , AN OFFICER , OR A CONTRACTOR OF A COMPANY , A PARTNERSHIP , A SOLE
PROPRIETORSHIP , A NONPROFIT ORGANIZATION , OR A GOVERNMENTAL UNIT
WHOSE COMMUNICATIONS OR TRANSACTIONS WITH A CONTROLLER OCCUR ONLY
WITHIN THE CONTEXT OF THE INDIVIDUAL 'S ROLE WITH THE COMPANY ,
PARTNERSHIP , SOLE PROPRIETORSHIP , NONPROFIT ORGANIZATION , OR
GOVERNMENTAL UNIT .

(I) (1) "CONSUMER HEALTH DATA " MEANS PERSONAL DATA THAT A

CONTROLLER USES TO IDENTIFY A CONSUMER 'S PHYSICAL OR MENTAL HEALTH

STATUS .

(2) "CONSUMER HEALTH DATA " INCLUDES DATA RELATED TO :

(I) GENDER -AFFIRMING CARE TREATMENT ; OR

(II) REPRODUCTIVE OR SEXUAL HEALTH CARE .

(J) "CONTROL " MEANS :WES MOORE, Governor Ch. 455

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(1) OWNERSHIP OF OR THE POWER TO VOTE MORE THAN 50% OF THE

OUTSTANDING SHARES OF ANY CLASS OF VOTING SECURITY OF A BUSINESS ;

(2) ANY MANNER OF CONTROL OVER THE ELECTION OF A MAJORITY

OF THE DIRECTORS OF A BUSINESS , OR INDIVIDUALS EXERCISING SIMILAR

FUNCTIONS ; OR

(3) THE POWER TO EXERCISE A CONTROLLING INFLUENCE OVER THE

MANAGEMENT OF A BUSINESS .

**(K) "CONTROLLER " MEANS A PERSON THAT , ALONE OR JOINTLY WITH
H**

OTHERS , DETERMINES THE PURPOSE AND MEANS OF PROCESSING PERSONAL DATA .

(L) (1) "COPPA" MEANS THE FEDERAL CHILDREN 'S ONLINE PRIVACY

**PROTECTION ACT OF 1998 AND THE REGULATIONS , RULES ,
GUIDANCE , AND**

EXEMPTIONS ADOPTED UNDER THE ACT , AND AS THE ACT AND THE REGULATIONS ,

RULES , GUIDANCE , AND EXEMPTIONS MAY BE AMENDED .

(2) "COPPA" INCLUDES REGULATIONS ADOPTED UNDER THE

FEDERAL CHILDREN 'S ONLINE PRIVACY PROTECTION ACT OF 1998.

(M) "COVERED ENTITY " HAS THE MEANING STATED IN HIPAA.

(N) (1) "DARK PATTERN " MEANS A USER INTERFACE DESIGNED OR

MANIPULATED WITH THE SUBSTANTIAL EFFECT OF SUBVERTING USER AUTONOMY ,

DECISION MAKING , OR CHOICE .

(2) "DARK PATTERN " INCLUDES ANY PRACTICE THE FEDERAL

TRADE COMMISSION REFERS TO AS A "DARK PATTERN ".

(O) "DECISIONS THAT PRODUCE LEGAL OR SIMILARLY SIGNIFICANT

EFFECTS CONCERNING THE CONSUMER " MEANS DECISIONS THAT RESULT IN THE
PROVISION OR DENIAL OF :

(1) FINANCIAL OR LENDING SERVICES ;

(2) HOUSING ;

(3) INSURANCE ;

(4) (3) EDUCATION ENROLLMENT OR OPPORTUNITY ;

(5) (4) CRIMINAL JUSTICE ;Ch. 455 2024 LAWS OF MARYLAND

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(6) (5) EMPLOYMENT OPPORTUNITIES ;

(7) (6) HEALTH CARE SERVICES ; OR

(8) (7) ACCESS TO ESSENTIAL GOODS OR SERVICES .

(P) "DE-IDENTIFIED DATA " MEANS DATA THAT CANNOT REASONABLY BE

USED TO INFER INFORMATION ABOUT OR OTHERWISE BE LINKED TO AN IDENTIFIED
OR IDENTIFIABLE CONSUMER , OR A DEVICE THAT MAY BE LINKED TO AN IDENTIFIED
OR IDENTIFIABLE CONSUMER , IF THE CONTROLLER THAT POSSESSES THAT
INFORMATION :

(1) TAKES REASONABLE MEASURES TO ENSURE THAT THE

INFORMATION CANNOT BE LINKED WITH A CONSUMER ;

(2) COMMITS IN PUBLICLY AVAILABLE TERMS AND CONDITIONS OR IN

A PUBLICLY AVAILABLE PRIVACY POLICY TO MAINTAIN AND USE THE INFORMATION
IN DE-IDENTIFIED FORM ; AND

(3) CONTRACTUALLY OBLIGES ANY RECIPIENTS OF THE

INFORMATION TO COMPLY WITH ALL PROVISIONS OF THIS SUBSECTION HAS THE
MEANING STATED IN § 14-4401 OF THIS TITLE .

(Q) "GENDER -AFFIRMING TREATMENT " HAS THE MEANING STATED IN §

15 -151(A) OF THE HEALTH - GENERAL ARTICLE .

(Q) (R) (1) "GENETIC DATA " MEANS DATA IN ANY FORMAT THAT
CONCERNS THE GENETIC CHARACTERISTICS OF A CONSUMER.

(2) "GENETIC DATA " INCLUDES :

(I) RAW SEQUENCE DATA THAT RESULTS FROM SEQUENCING
OF A CONSUMER'S COMPLETE EXTRACTED DNA OR A PORTION OF THE CONSUMER'S
COMPLETE EXTRACTED DNA;

(II) GENOTYPIC AND PHENOTYPIC INFORMATION THAT
RESULTS FROM ANALYZING RAW SEQUENCE DATA ;

(III) INFORMATION extrapolated , derived , OR INFERRED
FROM THE ANALYSIS OF RAW SEQUENCE DATA ; AND WES MOORE, Governor Ch. 455
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(IV) SELF -REPORTED HEALTH INFORMATION SUBMITTED TO A
DIRECT -TO -CONSUMER GENETIC TESTING COMPANY BY A CONSUMER REGARDING
THE CONSUMER'S HEALTH CONDITIONS :

1. THAT IS USED FOR SCIENTIFIC RESEARCH OR
PRODUCT DEVELOPMENT ; AND

2. ANALYZED IN CONNECTION WITH THE CONSUMER'S
RAW SEQUENCE DATA HAS THE MEANING STATED IN § 14 -4401 OF THIS TITLE .

(R) (S) (1) "GEOFENCE " MEANS TECHNOLOGY THAT ESTABLISHES A
VIRTUAL GEOGRAPHICAL BOUNDARY .

(2) "GEOFENCE " INCLUDES BOUNDARIES THAT ARE ESTABLISHED
OR MONITORED THROUGH THE USE OF :

(I) GLOBAL POSITIONING TECHNOLOGY ;

(II) CELL TOWER CONNECTIVITY ;

(III) CELLULAR DATA ;

(IV) RADIO FREQUENCY IDENTIFICATION ;

(V) WIRELESS FIDELITY TECHNOLOGY ; OR

(VI) ANY OTHER FORM OF LOCATION DETERMINATION
TECHNOLOGY .

(S) (T) "HIPAA" MEANS THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

(T) (U) "IDENTIFIED OR IDENTIFIABLE CONSUMER " MEANS A CONSUMER

WHO CAN READILY BE IDENTIFIED , EITHER DIRECTLY OR INDIRECTLY .

(U) (V) "MENTAL HEALTH FACILITY" MEANS A HEALTH CARE FACILITY IN

WHICH NOT LESS THAN 70% OF HEALTH CARE SERVICES OFFERED ARE MENTAL HEALTH SERVICES .

(V) (W) (1) "PERSONAL DATA " MEANS ANY INFORMATION THAT IS

LINKED OR CAN BE REASONABLY LINKED TO AN IDENTIFIED OR IDENTIFIABLE CONSUMER .

(2) "PERSONAL DATA " DOES NOT INCLUDE :Ch. 455 2024 LAWS OF MARYLAND

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(I) DE-IDENTIFIED DATA ; OR

(II) PUBLICLY AVAILABLE INFORMATION .

(W) (X) (1) "PRECISE GEOLOCATION DATA " MEANS INFORMATION

DERIVED FROM TECHNOLOGY THAT CAN PRECISELY AND ACCURATELY IDENTIFY THE SPECIFIC LOCATION OF A CONSUMER WITHIN A RADIUS OF 1,750 FEET .

(2) "PRECISE GEOLOCATION DATA " INCLUDES GLOBAL POSITIONING

SYSTEM LEVEL LATITUDE AND LONGITUDE COORDINATES OR OTHER SIMILAR MECHANISMS .

(3) "PRECISE GEOLOCATION DATA " DOES NOT INCLUDE :

(I) THE CONTENT OF COMMUNICATIONS DATA ;

(II) DATA GENERATED BY OR CONNECTED TO AN ADVANCED

UTILITY METERING INFRASTRUCTURE SYSTEM ; OR

(II) (III) EQUIPMENT DATA GENERATED BY EQUIPMENT USED

BY A UTILITY COMPANY .

(X) (Y) (1) "PROCESS " MEANS AN OPERATION OR SET OF OPERATIONS

PERFORMED BY MANUAL OR AUTOMATED MEANS ON PERSONAL DATA .

(2) "PROCESS " INCLUDES COLLECTING , USING , STORING ,

DISCLOSING , ANALYZING , DELETING , OR MODIFYING PERSONAL DATA .

(Y) (Z) "PROCESSOR " MEANS A PERSON THAT PROCESSES PERSONAL

DATA ON BEHALF OF A CONTROLLER .

**(Z) (AA) "PROFILING " MEANS ANY FORM OF AUTOMATED
PROCESSING**

PERFORMED ON PERSONAL DATA TO EVALUATE , ANALYZE , OR PREDICT PERSONAL

ASPECTS RELATED TO AN IDENTIFIED OR IDENTIFIABLE CONSUMER 'S ECONOMIC

SITUATION , HEALTH , DEMOGRAPHIC CHARACTERISTICS , PERSONAL PREFERENCES ,

INTERESTS , RELIABILITY , BEHAVIOR , LOCATION , OR MOVEMENTS .

**(AA) (BB) "PROTECTED HEALTH INFORMATION " HAS THE MEANING
STATED**

IN HIPAA.

(BB) (CC) (1) "PUBLICLY AVAILABLE INFORMATION " MEANS

INFORMATION THAT A PERSON :WES MOORE, Governor Ch. 455

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(I) IS LAWFULLY MADE READILY AVAILABLE TO THE GENERAL

PUBLIC THROUGH FEDERAL , STATE , OR LOCAL GOVERNMENT RECORDS ; OR

(II) A CONTROLLER HAS A REASONABLE BASIS TO BELIEVE

THAT A CONSUMER HAS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC

THROUGH WIDELY DISTRIBUTED MEDIA .

(I) LAWFULLY OBTAINS FROM A RECORD OF A GOVERNMENTAL

ENTITY ;

(II) REASONABLY BELIEVES A CONSUMER OR WIDELY

DISTRIBUTED MEDIA HAVE LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC ;

OR

(III) IF THE CONSUMER HAS NOT RESTRICTED THE

INFORMATION TO A SPECIFIC AUDIENCE , OBTAINS FROM A PERSON TO WHOM THE

CONSUMER DISCLOSED THE INFORMATION .

(2) "PUBLICLY AVAILABLE INFORMATION " DOES NOT INCLUDE

BIOMETRIC DATA COLLECTED BY A BUSINESS ABOUT A CONSUMER WITHOUT THE

CONSUMER 'S KNOWLEDGE .

(CC) (DD) (1) "REPRODUCTIVE OR SEXUAL HEALTH CARE " MEANS CARE

RELATED TO A HEALTH CARE -RELATED SERVICE OR PRODUCT RENDERED OR PROVIDED CONCERNING A CONSUMER 'S REPRODUCTIVE SYSTEM OR SEXUAL WELL-BEING ., INCLUDING :

(2) "REPRODUCTIVE OR SEXUAL HEALTH CARE " INCLUDES :

(I) (1) A SERVICE OR PRODUCT PROVIDED RELATED TO AN

INDIVIDUAL HEALTH CONDITION , STATUS , DISEASE , DIAGNOSIS , TEST , OR TREATMENT ;

(II) (2) A SOCIAL , PSYCHOLOGICAL , BEHAVIORAL , OR

MEDICAL INTERVENTION ;

(III) (3) A SURGERY OR PROCEDURE ;

(IV) (4) THE PURCHASE OR USE OF A MEDICATION ,

INCLUDING A MEDICATION PURCHASED OR USED FOR THE PURPOSES OF AN ABORTION ;

(V) (5) A SERVICE OR PRODUCT RELATED TO A BODILY

FUNCTION , VITAL SIGN , OR MEASUREMENT THEREOF SYMPTOM ;Ch. 455 2024 LAWS OF MARYLAND
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(6) A MEASUREMENT OF A BODILY FUNCTION , VITAL SIGN , OR

SYMPTOM ; AND

(VI) (7) AN ABORTION ,, WHETHER SURGICAL OR MEDICAL ;

AND

(VII) A SERVICE RELATED TO AN ABORTION AND MEDICAL AND

NONMEDICAL SERVICES , PRODUCTS , DIAGNOSTICS , COUNSELING , AND FOLLOW -UP SERVICES FOR AN ABORTION .

(DD) (EE) "REPRODUCTIVE OR SEXUAL HEALTH CARE FACILITY " MEANS A

HEALTH CARE FACILITY WHERE NOT LESS THAN 70% OF SERVICES OFFERED ARE REPRODUCTIVE OR SEXUAL HEALTH CARE SERVICES .

(EE) (FF) (1) "SALE OF PERSONAL DATA " MEANS THE EXCHANGE OF

PERSONAL DATA BY A CONTROLLER , A PROCESSOR , OR AN AFFILIATE OF A CONTROLLER OR PROCES SER TO A THIRD PARTY FOR MONETARY OR OTHER VALUABLE CONSIDERATI ON.

(2) "S ALE OF PERSONAL DATA " DOES NOT INCLUDE :

(I) THE DISCLOSURE OF PER SONAL DATA TO A PROC ESSOR

THAT PROCESSES PER SO NAL DATA ON BEHALF O F A CONTROLLER IF LI MITED TO THE PURPOSES OF THE PROCESSING ;

(II) THE DISCLOSURE OF PER SONAL DATA TO A THIRD PARTY

FOR PURPOSES OF PROV IDING A PRODUCT OR SERVICE AFFIRMATIVELY REQUESTED BY THE CON SUMER ;

(III) THE DISCLOSURE OR TRA NSFER OF PERSONAL DA TA TO AN

AFFILIATE OF THE CON TROLLER FOR THE PURPOSE OF P ROVIDING A PRODUCT O R SERVICE AFFIRMATIVEL Y REQU ESTED BY THE CONSUME R;

(IV) THE DISCLOSURE OF PER SONAL DATA WHERE THE

CONSUMER :

1. DIRECTS THE CONTROLLE R TO DISCLOSE THE

PERSONAL DATA ; OR

2. INTENTIONALLY USES TH E CONTROLLER TO

INTERACT WITH A THIR D PARTY ;WES MOORE, Governor Ch. 455

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(V) THE DISCLOSURE OF PER SONA L DATA THAT THE

CONSUMER :

1. INTENTIONALLY MADE AV AILABLE TO THE GENER AL

PUBLIC THROUGH A CHA NNEL OF MASS MEDIA ; AND

2. DID NOT RESTRICT TO A SPECIFIC AUDIENCE ; OR

(VI) THE DISCLOSURE OR TRA NSFER OF PERSONAL DA TA TO A

THIRD PARTY AS AN AS SET THAT IS PART OF AN A CTUAL OR PROPOSED ME RGER , ACQUISITION , BANKRUPTCY , OR OTHER TRANSACTION WHERE THE THIRD PART Y ASSUMES CONTROL OF A LL OR PART OF THE CO NTROLLER 'S ASSETS .

(FF) (GG) "S ENSITIVE DATA " MEANS PERSONAL DATA THAT INCLUDES :

(1) DATA REVEALING :

(I) RACIAL OR ETHNIC ORIGIN ;

(II) RELIGIOUS BELIEFS ;

(III) CONSUMER HEALTH DATA ;

(IV) SEX LIFE ;

(V) SEXUAL ORIENTATION ;

(VI) STATUS AS TRANSGENDER OR NONBINARY ;

(VII) NATIONAL ORIGIN ; OR

(VIII) CITIZENSHIP OR IMMIGRATION STATUS ;

(2) GENETIC DATA OR BIOMETRIC DATA ;

(3) PERSONAL DATA OF A CONSUMER THAT THE CONTROLLER KNOWS

OR HAS REASON TO KNOW IS A CHILD ; OR

(4) PRECISE GEOLOCATION DATA .

(GG) (HH) (1) "TARGETED ADVERTISING " MEANS DISPLAYING

ADVERTISEMENTS TO A CONSUMER OR ON A DEVICE IDENTIFIED BY A UNIQUE

IDENTIFIER , WHERE THE ADVERTISEMENT IS SELECTED BASED ON PERSONAL DATA

OBTAINED OR INFERRED FROM THE CONSUMER 'S ACTIVITIES OVER TIME AND Ch. 455 2024 LAWS OF MARYLAND

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ACROSS NONAFFILIATED WEBSITES OR ONLINE APPLICATIONS THAT ARE

UNAFFILIATED WITH EACH OTHER , IN ORDER TO PREDICT THE CONSUMER 'S

PREFERENCES OR INTERESTS .

(2) "TARGETED ADVERTISING " DOES NOT INCLUDE :

(I) ADVERTISEMENTS BASED ON THE CONTEXT IN WHICH THE

ADVERTISEMENT APPEARS AND DOES NOT VARY BASED ON WHO IS VIEWING THE

ADVERTISEMENT OF A CONSUMER 'S CURRENT SEARCH QUERY , VISIT TO A WEBSITE ,

OR ONLINE APPLICATION;

(II) ADVERTISEMENTS BASED ON A CONSUMER 'S ACTIVITIES

WITHIN A CONTROLLER 'S WEBSITES OR ONLINE APPLICATIONS ;

(III) ADVERTISEMENTS DIRECT ED TO A CONSUMER IN

RESPONSE TO THE CONSUMER'S REQUEST FOR INFORMATION OR FEEDBACK ; OR

(IV) PROCESSING PERSONAL DATA SOLELY TO MEASURE OR

REPORT ADVERTISING FREQUENCY , PERFORMANCE , OR REACH .

(HH) (II) "THIRD PARTY " MEANS A PERSON OTHER THAN THE RELEVANT

CONSUMER , CONTROLLER , PROCESSOR , OR AFFILIATE OF THE CONTROLLER OR PROCESSOR OF RELEVANT PERSONAL DATA .

(II) (JJ) (1) "TRADE SECRET " MEANS INFORMATION THAT :

(I) DERIVES INDEPENDENT ECONOMIC VALUE , ACTUAL OR

POTENTIAL , FROM NOT BEING GENERALLY KNOWN TO , AND NOT BEING READILY ASCERTAINABLE BY PROPER MEANS BY , OTHER PERSONS WHO COULD OBTAIN ECONOMIC VALUE FROM THE INFORMATION'S DISCLOSURE OR USE ; AND

(II) IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE

UNDER THE CIRCUMSTANCES TO MAINTAIN THE SECRECY OF THE INFORMATION .

(2) "TRADE SECRET " INCLUDES A FORMULA , PATTERN ,

COMPILATION , PROGRAM , DEVICE , METHOD , TECHNIQUE , OR PROCESS HAS THE MEANING STATED IN § 11 -1201 OF THIS ARTICLE .

14 -4602.

THIS SUBTITLE APPLIES TO A PERSON THAT :

(1) (I) CONDUCTS BUSINESS IN THE STATE ; OR WES MOORE, Governor Ch. 455

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(2) (I) (II) PRODUCES PROVIDES SERVICES OR PRODUCTS THAT

ARE TARGETED TO RESIDENTS OF THE STATE ; AND

(II) (2) DURING THE IMMEDIATELY PRECEDING CALENDAR

YEAR :

1. (I) CONDUCTS BUSINESS IN THE STATE OR PROVIDES

PRODUCTS OR SERVICES THAT ARE TARGETED TO RESIDENTS OF THE STATE , AND THAT DURING THE PRECEDING CALENDAR YEAR DID ANY OF THE FOLLOWING :

(1) CONTROLLED OR PROCESS ED THE PERSONAL DATA OF AT LEAST 35,000 CONSUMERS , EXCLUDING PERSONAL D ATA CONTROLLED OR PR OCESSED

SOLELY FOR THE PURPO SE OF COMPLETING A P AYMENT TRANSACTION ; OR

2. (II) (2) CONTROLLED OR PROCESS ED THE PERSONAL

DATA OF AT LEAST 10,000 CONSUMERS AND DERIVE D MORE THAN 20% OF ITS GROSS REVENUE FROM THE SALE OF PER SONAL DATA .

14 -4603.

(A) THIS SUBTITLE DOES NO T APPLY TO :

(1) A REGULATORY , ADMINISTRATIVE , ADVISORY , EXECUTIVE ,

APPOINTIVE , LEGISLATIVE , OR JUDICIAL BODY OR INSTRUMENTALITY OF THE

STATE , INCLUDING A BOARD , BUREAU , COMMISSION , OR UNIT OF THE STATE OR A

POLITICAL SUBDIVISIO N OF THE STATE ;

(2) A NATIONAL SECURITIES ASSOCIATION THAT IS REGISTERED

UNDER § 15 OF THE FEDERAL SECURITIES EXCHANGE ACT OF 1934 OR A

REGISTERED FUTURES A SSOCIATION DESIGNATE D IN ACCORDANCE WITH § 17 OF THE FEDERAL COMMODITY EXCHANGE ACT ; OR

(3) A FINANCIAL INSTITUTIO N OR , AN AFFILIATE OF A FINAN CIAL

INSTITUTION , OR DATA THAT IS SUBJECT TO TITLE V OF THE FEDERAL

GRAMM -LEACH -BLILEY ACT AND REGULATIONS A DOPTED UNDER THAT AC T; OR

(4) A NONPROFIT CONTROLLE R THAT PROCESSES OR SHARES

PERSONAL DATA SOLELY FOR THE PURPOSES OF ASSISTING :

(I) LAW ENFORCEMENT AGENC IES IN INVESTIGATING

CRIMINAL OR FRAUDULE NT ACTS RELATING TO INSURANCE ; OR

(II) FIRST RESPONDERS IN RESPONDING TO CATASTR OPHIC

EVENTS .Ch. 455 2024 LAWS OF MARYLAND

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(B) THE FOLLOWING INFORMATION AND DATA ARE EXEMPT FROM THIS

SUBTITLE :

(1) PROTECTED HEALTH INFORMATION UNDER HIPAA;

(2) PATIENT -IDENTIFYING INFORMATION FOR PURPOSES OF 42 U.S.C. § 290 DD -2;

(3) IDENTIFIABLE PRIVATE INFORMATION THAT IS USED FOR

PURPOSES OF THE FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS IN ACCORDANCE WITH 45 C.F.R. § 46;

(4) IDENTIFIABLE PRIVATE INFORMATION TO THE EXTENT THAT IT IS

COLLECTED AND USED AS PART OF HUMAN SUBJECTS RESEARCH IN ACCORDANCE WITH THE ICH 36 GOOD CLINICAL PRACTICE GUIDELINES ISSUED BY THE

INTERNATIONAL COUNCIL FOR HARMONISATION OF TECHNICAL REQUIREMENTS

FOR PHARMACEUTICALS FOR HUMAN USE OR THE PROTECTION OF HUMAN SUBJECTS UNDER 21 C.F.R. §§ 50 AND 56;

(5) PATIENT SAFETY WORK PRODUCT THAT IS CREATED AND USED

FOR PURPOSES OF PATIENT SAFETY IMPROVEMENT IN ACCORDANCE WITH 42

C.F.R. § 3, ESTABLISHED IN ACCORDANCE WITH 42 U.S.C. §§ 299 B-21 THROUGH

299 B-26;

(6) (I) INFORMATION TO THE EXTENT IT IS USED FOR PUBLIC

HEALTH , COMMUNITY HEALTH , OR POPULATION HEALTH ACTIVITIES AND PURPOSES , AS AUTHORIZED BY HIPAA, WHEN PROVIDED BY OR TO A COVERED ENTITY OR WHEN PROVIDED BY OR TO A BUSINESS ASSOCIATE IN ACCORDANCE WITH THE BUSINESS ASSOCIATE AGREEMENT WITH A COVERED ENTITY ;

(II) INFORMATION THAT IS A MEDICAL RECORD UNDER § 4-301

OF THE HEALTH - GENERAL ARTICLE IF :

1. THE INFORMATION IS HELD BY AN ENTITY THAT IS A

COVERED ENTITY OR BUSINESS ASSOCIATE UNDER HIPAA BECAUSE IT COLLECTS , USES , OR DISCLOSES PROTECTED HEALTH INFORMATION; AND

2. THE ENTITY APPLIES THE SAME STANDARDS FOR THE

COLLECTION, USE, AND DISCLOSURE OF THE INFORMATION AS REQUIRED FOR
PROTECTED HEALTH INFORMATION UNDER HIPAA AND MEDICAL RECORDS UNDER

§ 4-301 OF THE HEALTH - GENERAL ARTICLE, INCLUDING SPECIFIC STANDARDS

REGARDING LEGALLY PROTECTED HEALTH CARE; AND WES MOORE, Governor Ch. 455

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(III) INFORMATION THAT IS DE-IDENTIFIED IN ACCORDANCE

WITH THE REQUIREMENTS FOR DE-IDENTIFICATION SET FORTH IN 45 C.F.R.

164.514 THAT IS DERIVED FROM INDIVIDUALLY IDENTIFIABLE HEALTH

INFORMATION AS DESCRIBED IN HIPAA OR PERSONAL INFORMATION CONSISTENT
WITH THE HUMAN SUBJECT PROTECTION REQUIREMENTS OF THE U.S. FOOD AND

DRUG ADMINISTRATION;

(7) THE COLLECTION, MAINTENANCE, DISCLOSURE, SALE,

COMMUNICATION, OR USE OF PERSONAL INFORMATION BEARING ON A CONSUMER'S
CREDITWORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL
REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING BY A CONSUMER
REPORTING AGENCY, FURNISHER, OR USER THAT PROVIDES INFORMATION FOR USE
IN A CONSUMER REPORT, AND BY A USER OF A CONSUMER REPORT, BUT ONLY TO
THE EXTENT THAT THE ACTIVITY IS REGULATED BY AND AUTHORIZED UNDER THE
FEDERAL FAIR CREDIT REPORTING ACT;

(8) PERSONAL DATA COLLECTED, PROCESSED, SOLD, OR DISCLOSED

IN COMPLIANCE WITH THE FEDERAL DRIVER'S PRIVACY PROTECTION ACT OF 1994;

(9) PERSONAL DATA REGULATED BY THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT;

(10) PERSONAL DATA COLLECTED, PROCESSED, SOLD, OR DISCLOSED

IN COMPLIANCE WITH THE FEDERAL FARM CREDIT ACT;

(11) DATA PROCESSED OR MAINTAINED:

(I) IN THE COURSE OF AN INDIVIDUAL APPLYING TO,

EMPLOYED BY, OR ACTING AS AN AGENT OR INDEPENDENT CONTRACTOR OF A

CONTROLLER , PROCESSOR , OR THIRD PARTY , TO THE EXTENT THAT T HE DATA IS COLLECTED AND USED W ITHIN THE CONTEXT OF THE ROLE ;

(II) AS THE EMERGENCY CONT ACT INFORMATION OF A

CONSUMER IF THE DATA IS USED FOR EMERGENC Y CONTACT PURPOSES ; OR

(III) THAT IS :

1. NECESSARY TO RETAIN TO ADMINISTER BENEFIT S

FOR ANOTHER INDIVIDU AL RELATING TO THE C ONSUMER WHO IS THE S UBJECT OF THE INFORMATION UNDE R ITEM (I) OF THIS ITEM ; AND

2. USED FOR THE PURPOSES OF ADMINISTERING THE

BENEFITS ; AND Ch. 455 2024 LAWS OF MARYLAND

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(12) PERSONAL DATA COLLECT ED , PROCESSED , SOLD , OR DISCLOSED

IN RELATION TO PRICE , ROUTE , OR SERVICE BY AN AIR CARRIER SUBJECT TO T HE FEDERAL AIRLINE DEREGULATION ACT TO THE EXTENT THI S SUBTITLE IS PREEMPTED BY THE FED ERAL AIRLINE DEREGULATION ACT ; AND

(13) PERSONAL DATA TO THE EXTENT IT IS COLLECTED FOR ,

PROVIDED TO , OR USED BY BY OR ON BEHALF OF A PERSON REGULATED U NDER THE

INSURANCE ARTICLE OR AN AFFILIA TE OF SUCH A PERSON , IN FURTH ERANCE OF

THE BUSINESS OF INSU RANCE .

(C) CONTROLLERS AND PROCE SSORS THAT COMPLY WI TH THE VERIFIABLE

PARENTAL CONSENT REQ UIREMENTS OF COPPA SHALL BE CONSIDERED COMPLIANT WITH AN OB LIGATION TO OBTAIN P ARENTAL CONSENT IN A CCORDANCE WITH THIS SUBTITLE W ITH R ESPECT TO A CONSUMER WHO IS A CHILD .

14 -4604.

A PERSON MAY NOT :

(1) PROVIDE AN EMPLOYEE OR A CONTRACTOR ACCES S TO

CONSUMER HEALTH DATA UNLESS THE :

(I) THE EMPLOYEE OR CONTRACT OR IS SUBJECT TO A

CONTRACTUAL OR STATUTORY DUTY OF CONFIDENTIALITY ; OR

(II) CONFIDENTIALITY IS REQUIRED AS A CONDITION OF

EMPLOYMENT OF THE EMPLOYEE ;

(2) PROVIDE A PROCESSOR ACCESS TO CONSUMER HEALTH DATA

UNLESS THE PERSON PROVIDING ACCESS TO THE CONSUMER HEALTH DATA AND

THE PROCESSOR COMPLY WITH § 14 -4607 14 -4608 OF THIS SUBTITLE ; OR

(3) USE A GEOFENCE :

(I) TO IDENTIFY , TRACK , COLLECT DATA FROM , OR SEND A

NOTIFICATION TO A CONSUMER REGARDING THE CONSUMER'S CONSUMER HEALTH

DATA ; AND

(II) WITHIN 1,750 FEET OF A MENTAL HEALTH FACILITY OR

REPRODUCTIVE OR SEXUAL HEALTH FACILITY ; OR WES MOORE, Governor Ch. 455

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(4) SELL OR OFFER TO SELL CONSUMER HEALTH DATA WITHOUT THE

CONSENT OF THE CONSUMER WHOSE HEALTH DATA IS TO BE SOLD OR OFFERED TO

BE SOLD TO ESTABLISH A VIRTUAL BOUNDARY THAT IS WITHIN 1,750 FEET OF ANY

MENTAL HEALTH FACILITY OR REPRODUCTIVE OR SEXUAL HEALTH FACILITY FOR

THE PURPOSE OF IDENTIFYING , TRACKING , OR COLLECTING DATA FROM , OR

SENDING ANY NOTIFICATION TO A CONSUMER REGARDING THE CONSUMER'S

CONSUMER HEALTH DATA .

14 -4605.

(A) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE A

CONTROLLER TO REVEAL A TRADE SECRET .

(B) A CONSUMER SHALL HAVE THE RIGHT TO :

(1) CONFIRM WHETHER A CONTROLLER IS PROCESSING THE

CONSUMER'S PERSONAL DATA , UNLESS THAT CONFIRMATION WOULD REQUIRE THE

DISCLOSURE OF A TRADE SECRET ;

(2) IF A CONTROLLER IS PROCESSING A CONSUMER'S PERSONAL

DATA , ACCESS THE CONSUMER'S PERSONAL DATA UNLESS THAT ACCESS WOULD

REQUIRE THE DISCLOSURE OF A TRADE SECRET ;

(3) CONSIDERING THE NATURE OF THE CONSUMER'S PERSONAL

DATA AND THE PURPOSES OF THE PROCESSING OF THE PERSONAL DATA , CORRECT

INACCURACIES IN THE CONSUMER 'S PERSONAL DATA ;

(4) REQUIRE A CONTROLLER TO DELETE PERSONAL DATA PROVIDED

BY , OR OBTAINED ABOUT , THE CONSUMER UNLESS RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW ;

(5) IF THE PROCESSING OF PERSONAL DATA IS DONE BY AUTOMATIC

MEANS , OBTAIN A COPY OF THE CONSUMER 'S PERSONAL DATA PROCESSED BY THE CONTROLLER IN A PORTABLE AND , TO THE EXTENT TECHNICALLY FEASIBLE , READILY USABLE FORMAT THAT ALLOWS THE CONSUMER TO EASILY TRANSMIT THE DATA TO ANOTHER CONTROLLER WITHOUT HINDERANCE ;

(6) OBTAIN A LIST OF THE CATEGORIES OF THIRD PARTIES TO WHICH

THE CONTROLLER HAS DISCLOSED THE CONSUMER'S PERSONAL DATA OR A LIST OF THE CATEGORIES OF THIRD PARTIES TO WHICH THE CONTROLLER HAS DISCLOSED ANY CONSUMER 'S PERSONAL DATA IF THE CONTROLLER DOES NOT MAINTAIN THIS INFORMATION IN A FORMAT SPECIFIC TO THE CONSUMER ; AND Ch. 455 2024 LAWS OF MARYLAND

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(7) OPT OUT OF THE PROCESSING OF PERSONAL DATA FOR PURPOSES

OF :

(I) TARGETED ADVERTISING ;

(II) THE SALE OF PERSONAL DATA ; OR

(III) PROFILING IN FURTHERANCE OF SOLELY AUTOMATED

DECISIONS THAT PRODUCE LEGAL OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING THE CONSUMER .

(C) (1) A CONTROLLER SHALL ESTABLISH A SECURE AND RELIABLE

METHOD FOR A CONSUMER TO EXERCISE A CONSUMER RIGHT UNDER THIS SECTION .

(2) A CONSUMER MAY EXERCISE A CONSUMER RIGHT UNDER THIS

SECTION BY THE METHOD ESTABLISHED BY THE CONTROLLER UNDER PARAGRAPH

(1) OF THIS SUBSECTION .

(D) (1) A CONSUMER MAY DESIGNATE AN AUTHORIZED AGENT IN

ACCORDANCE WITH § 14 -4606 OF THIS SUBTITLE TO OPT OUT OF THE PROCESSING OF THE CONSUMER 'S PERSONAL DATA UNDER SUBSECTION (B)(7) OF THIS SECTION ON BEHALF OF A CONSUMER .

(2) A PARENT OR LEGAL GUARDIAN OF A CHILD MAY EXERCISE A

CONSUMER RIGHT LISTED IN SUBSECTION (B) OF THIS SECTION ON THE CHILD'S
BEHALF REGARDING THE PROCESSING OF PERSONAL DATA .

(3) A GUARDIAN OR CONSERVATOR OF A CONSUMER SUBJECT TO A

GUARDIANSHIP , CONSERVATORSHIP , OR OTHER PROTECTIVE ARRANGEMENT MAY
EXERCISE A CONSUMER RIGHT LISTED IN SUBSECTION (B) OF THIS SECTION ON THE
CONSUMER'S BEHALF REGARDING THE PROCESSING OF PERSONAL DATA .

(E) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE , A

CONTROLLER SHALL COMPLY WITH A REQUEST BY A CONSUMER TO EXERCISE A
CONSUMER RIGHT LISTED IN THIS SECTION .

(2) (I) A CONTROLLER SHALL RESPOND TO A CONSUMER REQUEST

NOT LATER THAN 45 DAYS AFTER THE CONTROLLER RECEIVES THE CONSUMER
REQUEST .

(II) A CONTROLLER MAY EXTEND THE COMPLETION PERIOD BY

AN ADDITIONAL 45 DAYS IF :WES MOORE, Governor Ch. 455

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1. IT IS REASONABLY NECESSARY TO COMPLETE THE

REQUEST BASED ON THE COMPLEXITY AND NUMBER OF THE CONSUMER'S
REQUESTS ; AND

2. THE CONTROLLER INFORMS THE CONSUMER OF THE

EXTENSION AND THE REASON FOR THE EXTENSION WITHIN THE INITIAL 45 -DAY
RESPONSE PERIOD .

(III) A CONTROLLER SHALL NOTIFY THE CONSUMER WITHIN 30

DAYS AFTER COMPLYING WITH THE CONSUMER'S REQUEST THAT THE CONTROLLER
HAS COMPLIED WITH THE CONSUMER'S REQUEST .

(3) IF A CONTROLLER DECLINES TO ACT REGARDING A CONSUMER'S

REQUEST , THE CONTROLLER SHALL :

(I) INFORM THE CONSUMER WITHOUT UNDUE DELAY , BUT NOT

LATER THAN 45 DAYS AFTER RECEIVING THE REQUEST , OF THE JUSTIFICATION FOR
DECLINING TO ACT ; AND

(II) PROVIDE INSTRUCTIONS FOR HOW TO APPEAL THE

DECISION .

(4) (I) A CONTROLLER SHALL PROVIDE INFORMATION TO A

CONSUMER IN RESPONSE TO A CONSUMER'S REQUEST TO EXERCISE RIGHTS UNDER THIS SUBTITLE FREE OF CHARGE ONCE DURING ANY 12-MONTH PERIOD.

(II) IF REQUESTS FROM A CONSUMER ARE MANIFESTLY

UNFOUNDED, EXCESSIVE, TECHNICALLY INFEASIBLE, OR REPETITIVE, A CONTROLLER MAY:

1. CHARGE THE CONSUMER A REASONABLE FEE TO

COVER THE ADMINISTRATIVE COSTS OF COMPLYING WITH THE REQUEST; OR

2. DECLINE TO ACT ON THE REQUEST.

(III) THE CONTROLLER HAS THE BURDEN OF DEMONSTRATING

THE MANIFESTLY UNFOUNDED, EXCESSIVE, TECHNICALLY INFEASIBLE, OR REPETITIVE NATURE OF THE REQUEST.

(5) IF A CONTROLLER IS UNABLE TO AUTHENTICATE A REQUEST TO

EXERCISE A CONSUMER RIGHT AFFORDED UNDER SUBSECTION (B)(1) THROUGH (5) OF THIS SECTION USING COMMERCIALY REASONABLE EFFORTS, THE CONTROLLER:

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(I) MAY NOT BE REQUIRED TO COMPLY WITH A REQUEST TO

INITIATE AN ACTION IN ACCORDANCE WITH THIS SECTION; AND

(II) SHALL PROVIDE NOTICE TO THE CONSUMER THAT THE

CONTROLLER IS UNABLE TO AUTHENTICATE THE REQUEST TO EXERCISE THE RIGHT UNTIL THE CONSUMER PROVIDES ADDITIONAL INFORMATION REASONABLY NECESSARY TO AUTHENTICATE THE CONSUMER AND THE CONSUMER'S REQUEST TO EXERCISE THE CONSUMER'S RIGHTS.

(6) A CONTROLLER MAY NOT BE REQUIRED TO AUTHENTICATE AN

OPT-OUT REQUEST.

(7) A CONTROLLER THAT HAS OBTAINED PERSONAL DATA ABOUT A

CONSUMER FROM A SOURCE OTHER THAN THE CONSUMER SHALL BE CONSIDERED COMPLIANT WITH THE CONSUMER'S REQUEST TO DELETE THE CONSUMER'S DATA IN ACCORDANCE WITH SUBSECTION (B)(4) OF THIS SECTION BY RETAINING A RECORD OF THE DELETION REQUEST AND THE MINIMUM DATA NECESSARY FOR THE PURPOSE OF ENSURING THAT THE CONSUMER'S PERSONAL DATA:

(I) REMAINS DELETED FROM THE CONTROLLER 'S RECORDS ;

AND

(II) IS NOT BEING USED FOR ANY OTHER PURPOSE .

(F) (1) A CONTROLLER SHALL ESTABLISH A PROCESS FOR A CONSUMER

TO APPEAL THE CONTROLLER 'S REFUSAL TO ACT ON A CONSUMER RIGHTS REQUEST
WITHIN A REASONABLE PERIOD AFTER THE CONSUMER RECEIVES THE DECISION .

(2) THE APPEAL PROCESS SHALL BE :

(I) CONSPICUOUSLY AVAILABLE ; AND

(II) SIMILAR TO THE PROCESSES FOR SUBMITTING REQUESTS TO

INITIATE AN ACTION IN ACCORDANCE WITH THIS SECTION .

(3) NOT LATER THAN 60 DAYS AFTER RECEIVING AN APPEAL , A

CONTROLLER SHALL INFORM THE CONSUMER IN WRITING OF ANY ACTION TAKEN OR
NOT TAKEN IN RESPONSE TO THE APPEAL , INCLUDING A WRITTEN EXPLANATION OF
THE REASONS FOR THE DECISIONS .

(4) IF A CONTROLLER DENIES AN APPEAL , THE CONTROLLER SHALL

PROVIDE THE CONSUMER WITH AN ONLINE MECHANISM , IF AVAILABLE , THROUGH
WHICH THE CONSUMER MAY CONTACT THE DIVISION TO SUBMIT A COMPLAINT .WES MOORE, Governor Ch. 455

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14 -4606.

(A) (1) A CONSUMER MAY DESIGNATE AN INDIVIDUAL TO SERVE AS THE

CONSUMER 'S AUTHORIZED AGENT AND ACT ON THE CONSUMER 'S BEHALF TO OPT
OUT OF THE PROCESSING OF THE CONSUMER 'S PERSONAL DATA FOR ONE OR MORE
OF THE PURPOSES SPECIFIED IN § 14 -4605(B)(7) OF THIS SUBTITLE .

**(2) A CONSUMER MAY DESIGNATE AN AUTHORIZED AGENT BY AN
INTERNET LINK OR A BROWSER SETTING , BROWSER EXTENSION ,
GLOBAL DEVICE**

SETTING , OR OTHER SIMILAR TECHNOLOGY , INDICATING A CONSUMER'S INTENT TO
OPT OUT OF THE PROCESSING OF THE CONSUMER 'S PERSONAL DATA .

(B) A CONTROLLER SHALL COMPLY WITH AN OPT -OUT REQUEST RECEIVED

FROM AN AUTHORIZED AGENT IF , USING COMMERCIALLY REASONABLE EFFORTS ,
THE CONTROLLER IS ABLE TO AUTHENTICATE :

(1) THE IDENTITY OF THE CONSUMER ; AND

(2) THE AUTHORIZED AGENT 'S AUTHORITY TO ACT ON THE
CONSUMER 'S BEHALF .

14 -4607.

(A) A CONTROLLER MAY NOT :

(1) COLLECT PERSONAL DATA FOR THE SOLE PURPOSE OF CONTENT

PERSONALIZATION OR MARKETING WITHOUT THE CONSENT OF THE CONSUMER
WHOSE PERSONAL DATA IS COLLECTED ;

(2) (1) EXCEPT WHERE THE COLLECTION OR PROCESSING IS

STRICTLY NECESSARY TO PROVIDE OR MAINTAIN A SPECIFIC PRODUCT OR SERVICE
REQUESTED BY THE CONSUMER TO WHOM THE PERSONAL DATA PERTAINS AND
UNLESS THE CONTROLLER OBTAINS THE CONSUMER 'S CONSENT , COLLECT ,
PROCESS , OR SHARE SENSITIVE DATA CONCERNING A CONSUMER ;

(3) (2) SELL SENSITIVE DATA ;

(4) (3) PROCESS PERSONAL DATA IN VIOLATION OF STATE OR

FEDERAL LAWS THAT PROHIBIT UNLAWFUL DISCRIMINATION ;

(5) (4) PROCESS THE PERSONAL DATA OF A CONSUMER FOR THE

PURPOSES OF TARGETED ADVERTISING IF THE CONTROLLER KNEW OR SHOULD Ch. 455 2024 LAWS OF MARYLAND
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HAVE KNOWN THAT THE CONSUMER IS AT LEAST 13 YEARS OLD AND UNDER THE AGE
OF 18 YEARS ;

(6) (5) SELL THE PERSONAL DATA OF A CONSUMER WITHOUT THE

CONSUMER 'S CONSENT IF THE CONTROLLER KNEW OR SHOULD HAVE KNOWN THAT
THE CONSUMER IS AT LEAST 13 YEARS OLD AND UNDER THE AGE OF 18 YEARS ;

(7) (6) DISCRIMINATE AGAINST A CONSUMER FOR EXERCISING A

CONSUMER RIGHT CONTAINED IN THIS SUBTITLE, INCLUDING DENYING GOODS OR
SERVICES , CHARGING DIFFERENT PRICES OR RATES FOR GOODS OR SERVICES , OR
PROVIDING A DIFFERENT LEVEL OF QUALITY OF GOODS OR SERVICES TO THE

CONSUMER ;

(8) (7) COLLECT , PROCESS , OR TRANSFER PERSONAL DATA OR

PUBLICLY AVAILABLE DATA IN A MANNER THAT UNLAWFULLY DISCRIMINATES IN OR OTHERWISE UNLAWFULLY MAKES UNAVAILABLE THE EQUAL ENJOYMENT OF GOODS OR SERVICES ON THE BASIS OF RACE , COLOR , RELIGION , NATIONAL ORIGIN , SEX , SEXUAL ORIENTATION , GENDER IDENTITY , OR DISABILITY , UNLESS THE COLLECTION , PROCESSING , OR TRANSFER OF PERSONAL DATA IS FOR :

(I) THE CONTROLLER 'S SELF -TESTING TO PREVENT OR

MITIGATE UNLAWFUL DISCRIMINATION ;

(II) THE CONTROLLER 'S DIVERSIFYING OF AN APPLICANT ,

PARTICIPANT , OR CUSTOMER POOL ; OR

(III) A PRIVATE CLUB OR GROUP NOT OPEN TO THE PUBLIC , AS

DESCRIBED IN § 201(E) OF THE CIVIL RIGHTS ACT OF 1964; OR

(9) (8) UNLESS THE CONTROLLER OBTAINS THE CONSUMER 'S

CONSENT , PROCESS PERSONAL DATA FOR A PURPOSE THAT IS NEITHER REASONABLY NECESSARY TO , NOR COMPATIBLE WITH , THE DISCLOSED PURPOSES FOR WHICH THE PERSONAL DATA IS PROCESSED , AS DISCLOSED TO THE CONSUMER .

(B) (1) A CONTROLLER SHALL :

(I) LIMIT THE COLLECTION OF PERSONAL DATA TO WHAT IS

REASONABLY NECESSARY AND PROPORTIONATE TO PROVIDE OR MAINTAIN A SPECIFIC PRODUCT OR SERVICE REQUESTED BY THE CONSUMER TO WHOM THE DATA PERTAINS ;

(II) ESTABLISH , IMPLEMENT , AND MAINTAIN REASONABLE

ADMINISTRATIVE , TECHNICAL , AND PHYSICAL DATA SECURITY PRACTICES TO WES MOORE, Governor Ch. 455

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PROTECT THE CONFIDENTIALITY , INTEGRITY , AND ACCESSIBILITY OF PERSONAL DATA APPROPRIATE TO THE VOLUME AND NATURE OF THE PERSONAL DATA AT ISSUE ; AND

(III) PROVIDE AN EFFECTIVE MECHANISM FOR A CONSUMER TO

REVOKE THE CONSUMER 'S CONSENT UNDER THIS SECTION THAT IS AT LEAST AS EASY AS THE MECHANISM BY WHICH THE CONSUMER PROVIDED THE CONSUMER 'S CONSENT .

(2) IF A CONSUMER REVOKES CONSENT UNDER THIS SECTION , THE

CONTROLLER SHALL STOP PROCESSING THE CONSUMER'S PERSONAL DATA AS SOON AS PRACTICABLE, BUT NOT LATER THAN 15 30 DAYS AFTER RECEIVING THE REQUEST.

(C) NOTHING IN SUBSECTION (A) OR (B) OF THIS SECTION MAY BE
CONSTRUED TO :

(1) REQUIRE A CONTROLLER TO PROVIDE A PRODUCT OR SERVICE
THAT REQUIRES THE PERSONAL DATA OF A CONSUMER THAT THE CONTROLLER DOES NOT COLLECT OR MAINTAIN ; OR

(2) PROHIBIT A CONTROLLER FROM OFFERING A DIFFERENT PRICE ,
RATE , LEVEL , QUALITY , OR SELECTION OF GOODS OR SERVICES TO A CONSUMER ,
INCLUDING OFFERING GOODS OR SERVICES FOR NO FEE , IF THE OFFERING IS IN
CONNECTION WITH A CONSUMER'S VOLUNTARY PARTICIPATION IN A BONA FIDE
LOYALTY , REWARDS , PREMIUM FEATURES , DISCOUNTS , OR CLUB CARD PROGRAM ,
PROVIDED THAT THE SELLING OF PERSONAL DATA IS NOT A CONDITION OF
PARTICIPATION IN THE PROGRAM .

**(D) A CONTROLLER SHALL PROVIDE A CONSUMER WITH A
REASONABLY**

ACCESSIBLE , CLEAR , AND MEANINGFUL PRIVACY NOTICE THAT INCLUDES :

(1) THE CATEGORIES OF PERSONAL DATA PROCESSED BY THE
CONTROLLER , INCLUDING SENSITIVE DATA ;

(2) THE CONTROLLER'S PURPOSE FOR PROCESSING PERSONAL DATA
;

(3) HOW A CONSUMER MAY EXERCISE THE CONSUMER'S RIGHTS
UNDER THIS SUBTITLE , INCLUDING HOW A CONSUMER MAY APPEAL A
CONTROLLER'S DECISION REGARDING THE CONSUMER'S REQUEST OR MAY REVOKE
CONSENT ;

(4) THE CATEGORIES OF THIRD PARTIES WITH WHICH THE
CONTROLLER SHARES PERSONAL DATA WITH A LEVEL OF DETAIL THAT ENABLES A Ch. 455 2024 LAWS OF MARYLAND
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CONSUMER TO UNDERSTAND WHAT TYPE OF ENTITY EACH THIRD PARTY IS AND , TO
THE EXTENT POSSIBLE , HOW EACH THIRD PARTY MAY PROCESS THE PERSONAL
DATA THE TYPE OF , BUSINESS MODEL OF , OR PROCESSING CONDUCTED BY EACH
THIRD PARTY ;

(5) THE CATEGORIES OF PERSONAL DATA , INCLUDING SENSITIVE

DATA , THAT THE CONTROLLER SHARES WITH THIRD PARTIES ; AND

(6) AN ACTIVE E-MAIL ADDRESS OR OTHER ONLINE MECHANISM

THAT A CONSUMER MAY USE TO CONTACT THE CONTROLLER .

(E) (1) IF A CONTROLLER SELLS PERSONAL DATA TO THIRD PARTIES OR

PROCESSES PERSONAL DATA FOR TARGETED ADVERTISING OR FOR THE PURPOSES OF PROFILING THE CONSUMER IN FURTHERANCE OF DECISIONS THAT PRODUCE LEGAL OR SIMILARLY SIGNIFICANT EFFECTS , THE CONTROLLER SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE THE SALE OR PROCESSING , AS WELL AS THE MANNER IN WHICH A CONSUMER MAY EXERCISE THE RIGHT TO OPT OUT OF THE SALE OR PROCESSING .

(2) THE DISCLOSURE REQUIRED UNDER PARAGRAPH (1) OF THIS

SUBSECTION SHALL BE PROMINENTLY DISPLAYED , AND USE CLEAR , EASY TO UNDERSTAND , AND UNAMBIGUOUS LANGUAGE , TO STATE WHETHER THE CONSUMER 'S INFORMATION WILL BE SOLD OR SHARED WITH A THIRD PARTY .

(F) (1) THE PRIVACY NOTICE UNDER SUBSECTION (D) OF THIS SECTION

SHALL ESTABLISH ONE OR MORE SECURE AND RELIABLE METHODS FOR A CONSUMER TO SUBMIT A REQUEST TO EXERCISE A CONSUMER RIGHT IN ACCORDANCE WITH THIS SUBTITLE THAT TAKE INTO ACCOUNT :

(I) THE WAYS IN WHICH CONSUMERS NORMALLY INTERACT

WITH THE CONTROLLER ;

(II) THE NEED FOR SECURE AND RELIABLE COMMUNICATION

OF CONSUMER REQUESTS ; AND

(III) THE ABILITY OF THE CONTROLLER TO VERIFY THE

IDENTITY OF A CONSUMER MAKING THE REQUEST .

(2) (I) A CONTROLLER MAY NOT REQUIRE A CONSUMER TO

CREATE A NEW ACCOUNT IN ORDER TO EXERCISE A CONSUMER RIGHT .

(II) A CONTROLLER MAY REQUIRE A CONSUMER TO USE AN

EXISTING ACCOUNT TO EXERCISE A CONSUMER RIGHT .WES MOORE, Governor Ch. 455

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(3) A CONTROLLER MAY UTILIZE THE FOLLOWING METHODS TO

SATISFY PARAGRAPH (1) OF THIS SUBSECTION :

(I) PROVIDING A CLEAR AND CONSPICUOUS LINK ON THE

CON TROLLER 'S WEBSITE TO A WEBPA GE THAT ALLOWS A CON SUMER , OR AN
AUTHORIZED AGENT OF THE CONSUMER , TO OPT OUT OF THE TA RGETED
ADVERTISING OR THE S ALE OF THE CONSUMER 'S PERSONAL DATA ; OR

(II) ON OR BEFORE OCTOBER 1, 2025, ALLOWING A CONSUMER

TO OPT OUT OF A NY PROCESSING OF THE CONSUMER 'S PERSONAL DATA FOR THE
PURPOSES OF TARGETED ADVERTISING , OR ANY SALE OF PERSO NAL DATA ,
THROUGH AN OPT -OUT PREFERENCE SIGNA L SENT , WITH THE CONSUMER 'S
CONSENT , BY A PLATFORM , TECHNOLOGY , OR MECHANISM TO THE CONTROLLER
INDICATI NG THE CONSUMER 'S INTENT TO OPT OUT OF THE PROCESSING OR SALE .

(4) A PLATFORM , TECHNOLOGY , OR MECHANISM USED IN

ACCORDANCE WITH PARA GRAPH (3) OF THIS SUBSECTION S HALL :

(I) BE CONSUMER -FRIENDLY AND EASY TO USE BY THE

AVERAGE CONSUMER ;

(II) USE CLEAR , EASY TO UNDERSTAND , AND UNAMBIGUOUS

LANGUAGE ;

(III) BE AS CONSISTENT AS P OSSIBLE WITH ANY OTH ER SIMILAR

PLATFORM , TECHNOLOGY , OR MECHANISM REQUIRE D BY ANY FEDERAL OR STATE
LAW OR REGULATION ;

(IV) ENABLE THE CONTROLLER TO REASONABLY DETERMINE

WHETHER THE CONSUMER :

1. IS A RESIDENT OF THE STATE ; AND

2. HAS MADE A LEGITIMATE REQUEST TO OPT OUT O F

ANY SALE OF THE CONS UMER 'S PERSONAL DATA OR T ARGETED ADVERTISING ; AND

(V) REQUIRE A CONSUMER TO MAKE AN AFFIRMATIVE ,

UNAMBIGUOUS , AND VOL UNTARY CHOICE IN ORD ER TO OPT OUT OF ANY
PROCESSING OF THE CO NSUMER 'S PERSONAL DATA .

(5) A PLATFORM , TECHNOLOGY , OR MECHANISM USED IN

ACCORDANCE WITH PARA GRAPH (3) OF THIS SUBSECTION M AY NOT :Ch. 455 2024 LAWS OF MARYLAND

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(I) UNFAIRLY DISADVANTAGE ANOTHER CONTROLLER ; OR

(II) USE A DEFAULT SETTING TO OPT A CONSUMER OUT OF ANY

PROCESSING OF THE CONSUMER 'S PERSONAL DATA .

(G) (1) IF A CONSUMER 'S DECISION TO OPT OUT OF THE PROCESSING OF

THE CONSUMER 'S PERSONAL DATA FOR THE PURPOSES OF TARGETED ADVERTISING , OR THE SALE OF PERSONAL DATA THROUGH AN OPT-OUT PREFERENCE SIGNAL SENT IN ACCORDANCE WITH SUBSECTION (F)(3) OF THIS SECTION CONFLICTS WITH THE CONSUMER 'S EXISTING CONTROLLER-SPECIFIC PRIVACY SETTING OR THE CONSUMER 'S VOLUNTARY PARTICIPATION IN A CONTROLLER 'S BONA FIDE LOYALTY , REWARDS , PREMIUM FEATURES , DISCOUNTS , OR CLUB CARD PROGRAM , THE CONTROLLER MAY NOTIFY THE CONSUMER OF A CONFLICT AND PROVIDE THE CHOICE TO CONFIRM CONTROLLER -SPECIFIC PRIVACY SETTINGS OR PARTICIPATION IN A PROGRAM LISTED IN THIS PARAGRAPH .

(2) A CONTROLLER THAT RECOGNIZES SIGNALS APPROVED BY

OTHER STATES SHALL BE CONSIDERED IN COMPLIANCE WITH THIS SECTION .

14 -4608.

(A) (1) IF A CONTROLLER USES A PROCESSOR TO PROCESS THE

PERSONAL DATA OF CONSUMERS , THE CONTROLLER AND THE PROCESSOR SHALL ENTER INTO A CONTRACT THAT GOVERNS THE PROCESSOR 'S DATA PROCESSING PROCEDURES WITH RESPECT TO PROCESSING PERFORMED ON BEHALF OF THE CONTROLLER .

(2) THE CONTRACT SHALL BE BINDING AND SHALL CLEARLY SET

FORTH INSTRUCTIONS FOR :

(I) PROCESSING INSTRUCTIONS FOR PROCESSING DATA ;

(II) THE NATURE AND PURPOSE OF PROCESSING ;

(III) THE TYPE OF DATA SUBJECT TO PROCESSING ;

(IV) THE DURATION OF PROCESSING ; AND

(V) THE RIGHTS AND OBLIGATIONS OF BOTH PARTIES.

(3) THE CONTRACT SHALL REQUIRE THAT THE PROCESSOR :WES MOORE, Governor Ch. 455

(I) ENSURE THAT EACH PERSON PROCESSING PERSONAL DATA

IS SUBJECT TO A DUTY OF CONFIDENTIALITY WITH RESPECT TO THE PERSONAL DATA ;

(II) ESTABLISH , IMPLEMENT , AND MAINTAIN REASONABLE

ADMINISTRATIVE , TECHNICAL , AND PHYSICAL DATA SECURITY PRACTICES TO PROTECT THE CONFIDENTIALITY , INTEGRITY , AND ACCESSIBILITY OF PERSONAL DATA , CONSIDERING THE VOLUME AND NATURE OF THE PERSONAL DATA ;

(III) STOP PROCESSING DATA ON REQUEST BY THE CONTROLLER

MADE IN ACCORDANCE WITH A CONSUMER 'S AUTHENTICATED REQUEST ;

(IV) AT THE CONTROLLER 'S DIRECTION , DELETE OR RETURN

ALL PERSONAL DATA TO THE CONTROLLER AS REQUESTED AT THE END OF THE PROVISION OF SERVICE , UNLESS RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW ;

(V) ON THE REASONABLE REQUEST OF THE CONTROLLER ,

MAKE AVAILABLE TO THE CONTROLLER ALL INFORMATION IN THE PROCESSOR 'S POSSESSION NECESSARY TO DEMONSTRATE THE PROCESSOR 'S COMPLIANCE WITH THE OBLIGATIONS IN THIS SUBTITLE ;

(VI) AFTER PROVIDING THE CONTROLLER AN OPPORTUNITY TO

OBJECT , ENGAGE A SUBCONTRACTOR TO ASSIST WITH PROCESSING PERSONAL DATA ON THE CONTROLLER 'S BEHALF ONLY IN ACCORDANCE WITH A WRITTEN CONTRACT THAT REQUIRES THE SUBCONTRACTOR TO MEET THE PROCESSOR 'S OBLIGATIONS REGARDING THE PERSONAL DATA UNDER THE PROCESSOR 'S CONTRACT WITH THE CONTROLLER ; AND

(VII) ALLOW AND COOPERATE WITH REASONABLE ASSESSMENTS

BY THE CONTROLLER , THE CONTROLLER 'S DESIGNATED ASSESSOR , OR A QUALIFIED AND INDEPENDENT ASSESSOR ARRANGED FOR BY THE PROCESSOR TO ASSESS THE PROCESSOR 'S POLICIES AND TECHNICAL AND ORGANIZATIONAL MEASURES IN SUPPORT OF THE OBLIGATIONS UNDER THIS SUBTITLE .

(4) (I) ON REQUEST , THE PROCESSOR SHALL PROVIDE A REPORT

OF AN ASSESSMENT REQUIRED BY PARAGRAPH (3)(V) OF THIS SUBSECTION TO THE CONTROLLER .

(II) AN ASSESSMENT CONDUCTED IN ACCORDANCE WITH

PARAGRAPH (3)(V) OF THIS SUBSECTION SHALL BE CONDUCTED USING AN APPROPRIATE AND ACCEPTED CONTROL STANDARD OR FRAMEWORK AND ASSESSMENT PROCEDURE FOR THE ASSESSMENTS .Ch. 455 2024 LAWS OF MARYLAND

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(B) (1) IF A CONTROLLER USES A PROCESSOR TO PROCESS THE

PERSONAL DATA OF CONSUMERS , THE CONTROLLER SHALL PROVIDE THE PROCESSOR WITH INSTRUCTIONS ON HOW TO PROCESS PERSONAL DATA .

(2) A PROCESSOR SHALL :

(I) (1) ADHERE TO THE CONTRACT AND INSTRUCTIONS OF A

CONTROLLER ;

(II) (2) ASSIST THE CONTROLLER IN MEETING THE

CONTROLLER 'S OBLIGATIONS UNDER THIS SUBTITLE , INCLUDING , CONSIDERING THE NATURE OF PROCESSING AND THE INFORMATION AVAILABLE TO THE PROCESSOR :

1. (I) BY APPROPRIATE TECHNICAL AND ORGANIZATIONAL

MEASURES AS MUCH AS REASONABLY PRACTICABLE TO FULFILL THE CONTROLLER 'S OBLIGATION TO RESPOND TO CONSUMER RIGHTS REQUESTS , CONSIDERING THE NATURE OF PROCESSING AND THE INFORMATION AVAILABLE TO THE PROCESSOR ; AND

2. (II) BY ASSISTING THE CONTROLLER IN MEETING THE

CONTROLLER 'S OBLIGATIONS IN RELATION TO THE SECURITY OF PROCESSING THE PERSONAL DATA AND IN RELATION TO THE NOTIFICATION OF A BREACH OF THE SECURITY OF A SYSTEM , AS DEFINED IN § 14 -3504 OF THIS TITLE ; AND

(III) (3) PROVIDE NECESSARY INFORMATION TO ENABLE THE

CONTROLLER TO CONDUCT AND DOCUMENT DATA PROTECTION ASSESSMENTS .

(C) NOTHING IN THIS SECTION MAY BE CONSTRUED TO RELIEVE A

CONTROLLER OR A PROCESSOR FROM THE LIABILITIES IMPOSED ON THE CONTROLLER OR PROCESSOR BY VIRTUE OF THE CONTROLLER 'S OR PROCESSOR 'S ROLE IN THE PROCESSING RELATIONSHIP IN ACCORDANCE WITH THIS SECTION .

(D) (1) THE DETERMINATION OF WHETHER A PERSON IS ACTING AS A

CONTROLLER OR A PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF DATA IS A FACT -BASED DETERMINATION THAT DEPENDS ON THE CONTEXT IN WHICH PERSONAL DATA IS BEING PROCESSED .

(2) A PERSON IS CONSIDERED TO BE A CONTROLLER IF THE PERSON :

(I) IS NOT LIMITED IN THE PERSON 'S PROCESSING OF SPECIFIC

PERSONAL DATA IN ACCORDANCE WITH A CONTROLLER 'S INSTRUCTIONS ; OR WES MOORE, Governor Ch. 455

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(II) FAILS TO ADHERE TO A CONTROLLER 'S INSTRUCTIONS

WITH RESPECT TO A SPECIFIC PROCESSING OF PERSONAL DATA .

(3) A PROCESSOR THAT CONTINUES TO ADHERE TO A CONTROLLER 'S

INSTRUCTIONS WITH RESPECT TO A SPECIFIC PROCESSING OF PERSONAL DATA

REMAINS A PROCESSOR .

(4) IF A PROCESSOR OR THIRD PARTY BEGINS , ALONE OR JOINTLY

WITH OTHERS , DETERMINING THE PURPOSES AND MEANS OF THE PROCESSING OF

PERSONAL DATA , THE PROCESSOR :

(I) IS A CONTROLLER WITH RESPECT TO THE PROCESSING ; AND

(II) MAY BE SUBJECT TO AN ENFORCEMENT ACTION UNDER

THIS SUBTITLE .

(E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ALTER A

CONTROLLER 'S OBLIGATION TO LIMIT A PERSON 'S PROCESSING OF PERSONAL DATA

OR TO TAKE STEPS TO ENSURE THAT A PROCESSOR ADHERES TO THE CONTROLLER 'S

INSTRUCTIONS .

14 -4609.

**(A) IF A THIRD PARTY USES OR SHARES A CONSUMER 'S INFORMATION
IN A**

MANNER INCONSISTENT WITH PROMISES MADE TO THE CONSUMER AT THE TIME OF

COLLECTION OF THE INFORMATION , THE THIRD PARTY SHALL PROVIDE AN

AFFECTED CONSUMER WITH NOTICE OF THE NEW OR CHANGED PRACTICE BEFORE

IMPLEMENTING THE NEW OR CHANGED PRACTICE .

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION

SHALL BE PROVIDED IN A MANNER AND AT A TIME REASONABLY CALCULATED TO

ALLOW A CONSUMER TO EXERCISE THE RIGHTS PROVIDED UNDER THIS SUBTITLE .

14 -4610.

(A) IN THIS SECTION , "PROCESSING ACTIVITIES THAT PRESENT A

HEIGHTENED RISK OF HARM TO A CONSUMER " MEANS :

(1) THE PROCESSING OF PERSONAL DATA FOR THE PURPOSES OF

TARGETED ADVERTISING ;

(2) THE SALE OF PERSONAL DATA ;

(3) THE PROCESSING OF SENSITIVE DATA ; AND Ch. 455 2024 LAWS OF MARYLAND

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(4) THE PROCESSING OF PERSONAL DATA FOR THE PURPOSES OF

PROFILING , IN WHICH THE PROFILING PRESENTS A REASONABLY FORESEEABLE

RISK OF :

(I) UNFAIR , ABUSIVE , OR DECEPTIVE TREATMENT OF A

CONSUMER ;

(II) HAVING AN UNLAWFUL DISPARATE IMPACT ON A

CONSUMER ;

(III) FINANCIAL , PHYSICAL , OR REPUTATIONAL INJURY TO A

CONSUMER ;

(IV) A PHYSICAL OR OTHER INTERUSION ON THE SOLITUDE OR

SECLUSION OR THE PRIVATE AFFAIRS OR CONCERNS OF A CONSUMER IN WHICH THE

INTRUSION WOULD BE OFFENSIVE TO A REASONABLE PERSON ; OR

(V) OTHER SUBSTANTIAL INJURY TO A CONSUMER .

(B) A CONTROLLER SHALL CONDUCT AND DOCUMENT , ON A REGULAR

BASIS , A DATA PROTECTION ASSESSMENT FOR EACH OF THE CONTROLLER'S

PROCESSING ACTIVITIES THAT PRESENT A HEIGHTENED RISK OF HARM TO A

CONSUMER , INCLUDING AN ASSESSMENT FOR EACH ALGORITHM THAT IS USED .

(C) (1) A DATA PROTECTION ASSESSMENT CONDUCTED IN ACCORDANCE

WITH THIS SECTION SHALL IDENTIFY AND WEIGH THE BENEFITS THAT MAY FLOW

DIRECTLY AND INDIRECTLY FROM THE PROCESSING TO THE CONTROLLER , THE

CONSUMER , OTHER INTERESTED PARTIES , AND THE PUBLIC AGAINST :

(I) THE POTENTIAL RISKS TO THE RIGHTS OF THE CONSUMER

ASSOCIATED WITH THE PROCESSING AS MITIGATED BY SAFEGUARDS THAT MAY BE EMPLOYED BY THE CONTROLLER TO REDUCE THESE RISKS ; AND

(II) THE NECESSITY AND PROPORTIONALITY OF PROCESSING IN
RELATION TO THE STATED PURPOSE OF THE PROCESSING .

(2) THE CONTROLLER SHALL FACTOR INTO A DATA PROTECTION
ASSESSMENT :

(I) THE USE OF DE-IDENTIFIED DATA ;

(II) THE REASONABLE EXPECTATIONS OF CONSUMERS ;WES MOORE,
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(III) THE CONTEXT OF THE PROCESSING ; AND

(IV) THE RELATIONSHIP BETWEEN THE CONTROLLER AND THE
CONSUMER WHOSE PERSONAL DATA WILL BE PROCESSED .

(D) (1) THE DIVISION MAY REQUIRE THAT A CONTROLLER MAKE
AVAILABLE TO THE DIVISION A DATA PROTECTION ASSESSMENT THAT IS RELEVANT
TO AN INVESTIGATION CONDUCTED BY THE DIVISION .

(2) (I) THE DIVISION MAY EVALUATE A DATA PROTECTION
ASSESSMENT FOR COMPLIANCE WITH THE RESPONSIBILITIES ESTABLISHED IN THIS
SUBTITLE .

(II) A CONTROLLER 'S DATA PROTECTION ASSESSMENT MAY BE
USED IN AN ACTION TO ENFORCE THIS SUBTITLE .

(3) A DATA PROTECTION ASSESSMENT IS CONFIDENTIAL AND IS
EXEMPT FROM DISCLOSURE UNDER THE FEDERAL FREEDOM OF INFORMATION ACT
OR THE PUBLIC INFORMATION ACT .

(E) A SINGLE DATA PROTECTION ASSESSMENT MAY ADDRESS A
COMPARABLE SET OF PROCESSING OPERATIONS THAT INCLUDE SIMILAR
ACTIVITIES .

(F) IF A CONTROLLER CONDUCTS A DATA PROTECTION ASSESSMENT
FOR
THE PURPOSE OF COMPLYING WITH ANOTHER APPLICABLE LAW OR REGULATION ,
THE DATA PROTECTION ASSESSMENT SHALL BE CONSIDERED TO SATISFY THE

REQUIREMENTS ESTABLISHED IN THIS SECTION IF THE DATA PROTECTION ASSESSMENT IS REASONABLY SIMILAR IN SCOPE AND EFFECT TO THE DATA PROTECTION ASSESSMENT THAT WOULD OTHERWISE BE CONDUCTED IN ACCORDANCE WITH THIS SECTION .

(G) TO THE EXTENT THAT ANY INFORMATION CONTAINED IN A DATA

PROTECTION ASSESSMENT DISCLOSED TO THE DIVISION INCLUDES INFORMATION SUBJECT TO ATTORNEY -CLIENT PRIVILEGE OR WORK PRODUCT PROTECTION , THE DISCLOSURE MAY NOT CONSTITUTE A WAIVER OF THAT PRIVILEGE OR PROTECTION .

(H) A DATA PROTECTION ASSESSMENT CONDUCTED UNDER THIS SECTION :

(1) SHALL APPLY TO PROCESSING ACTIVITIES THAT OCCUR ON OR
AFTER OCTOBER 1, 2025; AND

(2) IS NOT REQUIRED FOR PROCESSING ACTIVITIES THAT OCCUR
BEFORE OCTOBER 1, 2025. Ch. 455 2024 LAWS OF MARYLAND

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14 -4611.

(A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO REQUIRE A
CONTROLLER OR A PROCESSOR TO :

(1) RE-IDENTIFY DE -IDENTIFIED DATA ;

(2) MAINTAIN DATA IN AN IDENTIFIABLE FORM ; OR

(3) COLLECT , OBTAIN , RETAIN , OR ACCESS ANY DATA OR
TECHNOLOGY IN ORDER TO BE CAPABLE OF ASSOCIATING AN AUTHENTICATED
CONSUMER REQUEST WITH PERSONAL DATA .

(B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO REQUIRE A
CONTROLLER OR PROCESSOR TO COMPLY WITH AN AUTHENTICATED CONSUMER
RIGHTS REQUEST IF THE CONTROLLER :

(1) IS NOT REASONABLY CAPABLE OF ASSOCIATING THE REQUEST
WITH THE PERSONAL DATA OR IT WOULD BE UNREASONABLY BURDENSOME FOR THE
CONTROLLER TO ASSOCIATE THE REQUEST WITH THE PERSONAL DATA ;

(2) DOES NOT USE THE PERSONAL DATA TO RECOGNIZE OR RESPOND
TO THE SPECIFIC CONSUMER WHO IS THE SUBJECT OF THE PERSONAL DATA OR
ASSOCIATE THE PERSONAL DATA WITH OTHER PERSONAL DATA ABOUT THE SAME

SPECIFIC CONSUMER ; AND

(3) DOES NOT SELL THE PERSONAL DATA TO A THIRD PARTY OR

OTHERWISE VOLUNTARILY DISCLOSE THE PERSONAL DATA TO A THIRD PARTY
OTHER THAN A PROCESSOR , EXCEPT AS OTHERWISE ALLOWED IN THIS SUBTITLE .

(C) (1) A CONTROLLER THAT DISCLOSES DE-IDENTIFIED DATA SHALL:

(I) EXERCISE REASONABLE OVERSIGHT TO MONITOR

COMPLIANCE WITH ANY CONTRACTUAL COMMITMENTS TO WHICH THE
DE-IDENTIFIED DATA IS SUBJECT ; AND

(II) TAKE APPROPRIATE STEPS TO ADDRESS ANY BREACHES OF

ANY CONTRACTUAL COMMITMENTS .

(2) THE DETERMINATION OF WHETHER OVERSIGHT IS REASONABLE

AND WHETHER APPROPRIATE STEPS WERE TAKEN IN ACCORDANCE WITH
PARAGRAPH (1) OF THIS SUBSECTION SHALL TAKE INTO ACCOUNT WHETHER THE WES MOORE, Governor Ch. 455
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DISCLOSED DATA INCLUDES DATA THAT WOULD BE CONSIDERED SENSITIVE DATA IF
THE DATA WERE RE-IDENTIFIED .

14 -4612.

(A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO RESTRICT A

CONTROLLER'S OR PROCESSOR'S ABILITY TO :

(1) COMPLY WITH FEDERAL , STATE , OR LOCAL LAWS OR

REGULATIONS ;

(2) COMPLY WITH A CIVIL , CRIMINAL , OR REGULATORY INQUIRY ,

INVESTIGATION , SUBPOENA , OR SUMMONS BY A FEDERAL , STATE , LOCAL , OR OTHER
GOVERNMENTAL AUTHORITY COMPLY WITH A CIVIL OR CRIMINAL SUBPOENA OR
SUMMONS BY A FEDERAL , STATE , LOCAL , OR OTHER JUDICIAL BODY , CRIMINAL , OR
REGULATORY INQUIRY , INVESTIGATION , SUBPOENA , OR SUMMONS BY A FEDERAL ,

STATE , LOCAL , OR OTHER GOVERNMENTAL AUTHORITY ;

(3) COOPERATE WITH LAW ENFORCEMENT AGENCIES CONCERNING

CONDUCT OR ACTIVITY THAT THE CONTROLLER OR PROCESSOR REASONABLY AND
IN GOOD FAITH BELIEVES MAY VIOLATE FEDERAL , STATE , OR LOCAL LAWS OR
REGULATIONS ;

(4) INVESTIGATE , ESTABLISH , EXERCISE , PREPARE FOR , OR DEFEND

A LEGAL CLAIM ;

(5) PROVIDE A PRODUCT OR SERVICE SPECIFICALLY REQUESTED BY
A CONSUMER ;

(6) PERFORM UNDER A CONTRACT TO WHICH A CONSUMER IS A
PARTY , INCLUDING FULFILLING THE TERMS OF A WRITTEN WARRANTY ;

(7) TAKE STEPS AT THE REQUEST OF A CONSUMER BEFORE
ENTERING INTO A CONTRACT ;

(8) TAKE IMMEDIATE STEPS TO PROTECT AN INTEREST THAT IS
ESSENTIAL FOR THE LIFE OR PHYSICAL SAFETY OF A CONSUMER OR ANOTHER
INDIVIDUAL AND WHEN THE PROCESSING CANNOT BE MANIFESTLY BASED ON
ANOTHER LEGAL BASIS ;

(9) PREVENT , DETECT , PROTECT AGAINST , INVESTIGATE ,
PROSECUTE THOSE RESPONSIBLE , OR OTHERWISE RESPOND TO A SECURITY
INCIDENT , IDENTITY THEFT , FRAUD , HARASSMENT , MALICIOUS OR DECEPTIVE
ACTIVITY , OR ANY OTHER TYPE OF ILLEGAL ACTIVITY ;Ch. 455 2024 LAWS OF MARYLAND

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(10) PRESERVE THE INTEGRITY OR SECURITY OF SYSTEMS ; OR

(11) ASSIST ANOTHER CONTROLLER , PROCESSOR , OR THIRD PARTY
WITH AN OBLIGATION UNDER THIS SUBTITLE .

(B) (1) THIS SUBSECTION DOES NOT APPLY TO AN OBLIGATION
REQUIRED UNDER § 14 -4611 OF THIS SUBTITLE .

(2) AN OBLIGATION IMPOSED ON A CONTROLLER OR PROCESSOR
UNDER THIS SUBTITLE MAY NOT RESTRICT A CONTROLLER'S OR PROCESSOR'S
ABILITY TO COLLECT , USE , OR RETAIN PERSONAL DATA FOR INTERNAL USE TO :

(I) EFFECTUATE A PRODUCT RECALL ;

(II) IDENTIFY AND REPAIR TECHNICAL ERRORS THAT IMPAIR
EXISTING OR INTENDED FUNCTIONALITY ; OR

(III) PERFORM INTERNAL OPERATIONS THAT ARE :

1. REASONABLY ALIGNED WITH THE EXPECTATIONS OF
THE CONSUMER OR CAN BE REASONABLY ANTICIPATED BASED ON THE CONSUMER'S
EXISTING RELATIONSHIP WITH THE CONTROLLER ; OR

2. OTHERWISE COMPATIBLE WITH PROCESSING DATA IN

FURTHERANCE OF :

A. THE PROVISION OF A PRODUCT OR SERVICE

SPECIFICALLY REQUESTED BY A CONSUMER ; OR

B. THE PERFORMANCE OF A CONTRACT TO WHICH THE

CONSUMER IS A PARTY .

(C) (1) AN OBLIGATION IMPOSED ON A CONTROLLER OR A PROCESSOR

UNDER THIS SUBTITLE DOES NOT APPLY WHEN COMPLIANCE BY THE CONTROLLER OR PROCESSOR WITH THE SUBTITLE WOULD VIOLATE AN EVIDENTIARY PRIVILEGE UNDER STATE LAW .

(2) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO PREVENT A

CONTROLLER OR PROCESSOR FROM PROVIDING PERSONAL DATA CONCERNING A CONSUMER TO A PERSON COVERED BY AN EVIDENTIARY PRIVILEGE UNDER STATE LAW AS PART OF A PRIVILEGED COMMUNICATION. WES MOORE, Governor Ch. 455

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(D) (1) A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL

DATA TO A PROCESSOR OR A THIRD -PARTY CONTROLLER IN COMPLIANCE WITH THIS SUBTITLE IS NOT IN VIOLATION OF THIS SUBTITLE IF THE PROCESSOR OR THIRD -PARTY CONTROLLER THAT RECEIVES THE PERSONAL DATA VIOLATES THIS SUBTITLE AND ,:

(I) AT THE TIME THE DISCLOSING CONTROLLER OR

PROCESSOR DISCLOSED THE PERSONAL DATA , THE DISCLOSING CONTROLLER OR PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE RECEIVING PROCESSOR OR THIRD -PARTY CONTROLLER WOULD VIOLATE THIS SUBTITLE ; AND

(II) THE DISCLOSING CONTROLLER WAS , AND REMAINED , IN

COMPLIANCE WITH ITS OBLIGATIONS AS THE DISCLOSER OF THE PERSONAL DATA .

(2) A THIRD -PARTY CONTROLLER OR PROCESSOR THAT RECEIVES

PERSONAL DATA FROM A CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THIS SUBTITLE IS NOT IN VIOLATION OF THIS SUBTITLE FOR THE INDEPENDENT MISCONDUCT OF THE CONTROLLER OR PROCESSOR FROM WHICH THE THIRD -PARTY CONTROLLER OR PROCESSOR RECEIVED THE PERSONAL DATA .

(E) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO :

(1) IMPOSE AN OBLIGATION ON A CONTROLLER OR A PROCESSOR

THAT ADVERSELY AFFECTS THE RIGHTS OR FREEDOMS OF ANY PERSON, INCLUDING THE RIGHTS OF A PERSON TO FREEDOM OF SPEECH OR FREEDOM OF THE PRESS AS GUARANTEED IN THE FIRST AMENDMENT TO THE U.S. CONSTITUTION; OR

(2) APPLY TO A PERSON'S PROCESSING OF PERSONAL DATA DURING

THE PERSON'S PERSONAL OR HOUSEHOLD ACTIVITIES.

(F) IF A CONTROLLER OR PROCESSOR PROCESSES PERSONAL DATA IN

ACCORDANCE WITH AN EXEMPTION UNDER THIS SECTION, THE CONTROLLER OR PROCESSOR SHALL DEMONSTRATE THAT THE PROCESSING:

(1) QUALIFIES FOR AN EXEMPTION; AND

(2) COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (G) OF THIS

SECTION.

(G) PERSONAL DATA PROCESSED BY A CONTROLLER OR PROCESSOR IN

ACCORDANCE WITH THIS SECTION:

(1) SHALL BE SUBJECT TO REASONABLE ADMINISTRATIVE,

TECHNICAL, AND PHYSICAL MEASURES TO: Ch. 455 2024 LAWS OF MARYLAND

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(I) PROTECT THE CONFIDENTIALITY, INTEGRITY, AND

ACCESSIBILITY OF THE PERSONAL DATA; AND

(II) REDUCE REASONABLY FORSEEABLE RISKS OF HARM TO

CONSUMERS RELATING TO THE COLLECTION, USE, OR RETENTION OF PERSONAL DATA; AND

(2) MAY BE PROCESSED TO THE EXTENT THAT THE PROCESSING IS:

(I) REASONABLY NECESSARY AND PROPORTIONATE TO THE

PURPOSES LISTED IN THIS SECTION; AND

(II) ADEQUATE, RELEVANT, AND LIMITED TO WHAT IS

NECESSARY IN RELATION TO THE SPECIFIC PURPOSES LISTED IN THIS SECTION.

(H) A PERSON THAT PROCESSES PERSONAL DATA FOR A PURPOSE

EXPRESSLY IDENTIFIED IN THIS SECTION MAY NOT BE CONSIDERED A CONTROLLER SOLELY BASED ON THE PROCESSING OF PERSONAL DATA.

14 -4613.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION , A

VIOLATION OF THIS SUBTITLE IS :

(1) AN UNFAIR , ABUSIVE , OR DECEPTIVE TRADE PRACTICE WITHIN

THE MEANING OF TITLE 13 OF THIS ARTICLE ; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS

CONTAINED IN TITLE 13 OF THIS ARTICLE , EXCEPT FOR § 13 -408 OF THIS ARTICLE .

(B) THIS SECTION DOES NOT PREVENT A CONSUMER FROM PURSUING ANY

OTHER REMEDY PROVIDED BY LAW .

14 -4614.

(A) THIS SECTION APPLIES TO AN ENFORCEMENT ACTION UNDER § 14 -4613

OF THIS SUBTITLE FOR AN ALLEGED VIOLATION THAT OCCURS ON OR BEFORE APRIL

1, 2027.

(B) BEFORE INITIATING ANY ACTION UNDER § 14 -4613 OF THIS SUBTITLE ,

THE DIVISION MAY ISSUE A NOTICE OF VIOLATION TO THE CONTROLLER OR

PROCESSOR IF THE DIVISION DETERMINES THAT A CURE IS POSSIBLE .WES MOORE, Governor Ch. 455

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(C) (1) IF THE DIVISION ISSUES A NOTICE OF VIOLATION UNDER

> SUBSECTION

(B) OF THIS SECTION , THE CONTROLLER OR PROCESSOR SHALL HAVE

> AT LEAST

60 DAYS TO CURE THE VIOLATION AFTER RECEIPT OF THE NOTICE .

(2) IF THE CONTROLLER OR PROCESSOR FAILS TO CURE THE

> VIOLATION WITHIN THE TIME PERIOD SPECIFIED BY THE

DIVISION , THE DIVISION

> MAY BRING AN ENFORCEMENT ACTION UNDER

§ 14 -4613 OF THIS SUBTITLE .

(D) IN DETERMINING WHETHER TO GRANT A CONTROLLER OR PROCESSOR

> AN OPPORTUNITY TO CURE AN ALLEGED VIOLATION

, THE DIVISION MAY CONSIDER

> THE FOLLOWING FACTORS

:

(1) THE NUMBER OF VIOLATIONS ;

(2) THE SIZE AND COMPLEXITY OF THE CONTROLLER OR PROCESSOR ;

**(3) THE NATURE AND EXTENT OF THE CONTROLLER'S OR
> PROCESSOR**

'S PROCESSING ACTIVITIES ;

(4) THE LIKELIHOOD OF INJURY TO THE PUBLIC ;

(5) THE SAFETY OF PERSONS OR PROPERTY ;

**(6) WHETHER THE ALLEGED VIOLATION WAS LIKELY CAUSED BY A
> HUMAN OR TECHNICAL ERROR**

; AND

**(7) THE EXTENT TO WHICH THE CONTROLLER OR PROCESSOR HAS
> VIOLATED THIS SUBTITLE OR SIMILAR LAWS IN THE PAST**

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SECTION 2. AND BE IT FURTHER ENACTED, That § 14 -4612 of the Commercial Law Article, as enacted by Section 1 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any personal data processing activities before April 1, 2025 2026 .

SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024 2025 .

Approved by the Governor, May 9, 2024 .