

# STATE OF NEW YORK

3612

2019-2020 Regular Sessions

## IN ASSEMBLY

January 29, 2019

Introduced by M. of A. ZEBROWSKI, BUCHWALD, JAFFEE, HYNDMAN, GUNTHER, COOK, HUNTER, DE LA ROSA, GOTTFRIED, BARRETT, ENGLEBRIGHT, GALEF, DINOWITZ, SCHIMMINGER, CRESPO, MOSLEY, BLAKE, GLICK, LUPARDO, BRAUNSTEIN, SANTABARBARA, WRIGHT, CAHILL, SOLAGES, MONTESANO, FINCH, RAIA -- Multi-Sponsored by -- M. of A. CROUCH, NOLAN, SIMON, THIELE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring internet service providers to provide customers with a copy of their privacy policy and to obtain written and explicit permission from a customer prior to sharing, using, selling or providing to a third party any sensitive information of such customer

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 390-bb to read as follows:

§ 390-bb. Internet service providers; customer data privacy. 1. For the purposes of this section the following terms shall have the following meanings:

(a) "Internet service provider" means any person, business, or organization who is qualified to conduct business in the state that provides individuals, corporations, or other entities with access to the internet as part of a service.

(b) "Customer" means any person, corporation or entity which pays a fee to an internet service provider for access to the internet as part of a service.

(c) "Sensitive information" means any information that which can identify the customer or any other information that is specifically attributable to such customer including, but not limited to, financial or medical data, biographical information, communication content, browsing or web history, or internet usage.

(d) "Non-sensitive information" means information collected on users that is not specific to an individual customer including, but not limited to, aggregated use, subscription data or other macro level information.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD02069-01-9

1     2. Each internet service provider shall provide customers with a copy,  
2 either in writing or in electronic form, of their privacy policy that  
3 shall include its data collection and use practices, third party  
4 relationships, purpose of the data collection and process for customers  
5 to exercise control over their information as provided in this section.  
6 The privacy policy shall be provided to customers upon entering into a  
7 contract with the internet service provider and subsequently upon any  
8 significant changes made to such policy.

9     3. An internet service provider shall obtain written and explicit  
10 permission from a customer prior to sharing, using, selling or providing  
11 to a third party any sensitive information of such customer. The inter-  
12 net service provider shall provide to the customer a clear and conspicu-  
13 ous description of the intended use of their information, including, but  
14 not limited to, type of information that may be disclosed, purpose of  
15 such disclosure, and all third party entities that may be receiving or  
16 using the information.

17     4. A customer shall have the option to remove their consent for the  
18 use or disclosure of non-sensitive information. The internet service  
19 provider shall develop a process for a customer to easily remove their  
20 consent for the use of any non-sensitive information. The process shall  
21 include a detailed description of the intended use of their information,  
22 including, but not limited to, type of information that may be  
23 disclosed, purpose of such disclosure, and all third party entities that  
24 may be receiving or using the information.

25     5. An internet service provider shall not, as a condition of the  
26 service, require consent from a customer for use of their sensitive or  
27 non-sensitive information.

28     6. An internet service provider may use sensitive or non-sensitive  
29 information without consent from the customer if such information is  
30 necessary in providing the service to the customer, including, but not  
31 limited to, billing, installation, and support.

32     7. Whenever there shall be a violation of this section, an application  
33 may be made by the attorney general in the name of the people of the  
34 state of New York to a court or justice having jurisdiction by a special  
35 proceeding to issue an injunction, and upon notice to the defendant of  
36 not less than five days, to enjoin and restrain the continuance of such  
37 violation; and if it shall appear to the satisfaction of the court or  
38 justice that the defendant has, in fact, violated this section, an  
39 injunction may be issued by such court or justice, enjoining and  
40 restraining any further violation, without requiring proof that any  
41 person has, in fact, been injured or damaged thereby. In any such  
42 proceeding, the court may make allowances to the attorney general as  
43 provided in paragraph six of subdivision (a) of section eighty-three  
44 hundred three of the civil practice law and rules, and direct restitu-  
45 tion. Whenever the court shall determine that a violation of this  
46 section has occurred, the court may impose a civil penalty of not more  
47 than five hundred dollars for a single violation and not more than fifty  
48 thousand dollars for multiple violations resulting from a single act or  
49 incident. In connection with any such proposed application, the attorney  
50 general is authorized to take proof and make a determination of the  
51 relevant facts and issue subpoenas in accordance with the civil practice  
52 law and rules.

53     § 2. This act shall take effect on the sixtieth day after it shall  
54 have become a law.