

H.R. 33

To guarantee Internet privacy rights for all Americans, establish privacy and security requirements relating to personal information, and establish an agency to enforce them.

IN THE CONGRESS OF THE UNITED STATES

April 28, 2021

Mr. Moonguy(for himself, Rep LouLou and Rep.
Solomon) introduced the following bill;

A BILL

To guarantee Internet privacy rights for all americans, establish privacy and security requirements relating to personal information, and establish an agency to enforce them.

*Be it enacted by the Senate and House of Representatives in Congress
Assembled,*

SEC. 1 — Short Title

1. This bill shall be referred to as the “Online Privacy and Security” Act.

SEC. 2 — Findings

In the context of this Act, Congress Finds that:

1. The Information rights and freedoms of Individuals are often unclear.
2. Companies often violate Information rights by: using invasive trackers on the internet, having privacy controls hidden and disabled by default and hiding search engine choice from consumers.
3. Surveys have Shown Privacy Rights to be one of the most important rights they have.

4. Since 2018, The Federal government has done little to maintain such rights.
5. Targeted advertisements have been proven to, in certain circumstances, prey on the vulnerable and cause unnecessary trauma.
6. The movement of incorrect and incomplete information has hurt individuals both in job prospects and credit ratings.
7. Data breaches have been shown to have immediate and harmful consequences.

SEC. 3 — Definitions

1. The term “The Agency” Shall refer to the henceforth established Agency for online Privacy and Security.
2. The term “The Director” Shall refer to the henceforth established Director of the Agency for online Privacy and Security.
3. Targeted Advertising-
 - A. The Term “Targeted Advertising” shall refer to the processing of an individual’s personal information, using an algorithm, model, or any other means built using that individual’s personal information collected over a period of time, or an aggregate of the personal information of one or more Individuals and designed to—
 - a. Alter, influence, guide, or predict an individual’s behaviour.
 - b. Tailor or personalize a product or service.
 - c. Associate a certain product or service with things known to be loved or hated by an Individual.
 - B. The Term “Targeted Advertising” shall not refer to the use of historical personal information to prevent the display of or provide additional information about previously accessed content, or to the use of publicly available statistics of Information to guide advertisement, or if the purposes algorithm for personalization are clearly shown in bold letters in the front page of the website.
4. The Term “Location Tracking” shall refer to the processing of geographical location, speed, or direction of a portable electronic device for the purposes of collecting and storing said data.
5. The term “Collecting” shall refer to, with respect to personal information or contents of communication, obtaining such information in any manner, except when solely transmitting or transferring it.
6. The term “Disclose”, with respect to personal information or contents of communication, shall refer to the sale, release, transfer, share, disseminate, make available, or communication of such information to a third party.

7. The term “Data breach” shall refer to an unauthorized access to or acquisition of personal information or contents of communications maintained by such covered entity.
8. The term “Data Sharing Abuse” shall refer to the processing, by a third party, of personal information or contents of communications disclosed by a covered entity to the third party, unless any individuals or entities concerned shall grant consent to the disclosure.
9. The term “De-Identified Data” shall refer to any data that cannot reasonably identify, relate to, describe, reference, be capable of being associated with, or be linked, directly or indirectly, to a particular individual or device.
10. The term “Re-Identification”, in the context of De-identified Data, shall refer to the process of transforming formally De-Identified Data into Non-De-Identified Data.
11. The term “Location Data” shall refer to any data gained through Location Tracking, Or any other Data related to the historical or current geographical location of any individual.
12. The Term “Biometric Data” shall refer to personal data relating to the physical, physiological, or behavioural characteristics of a person, which allows the unique identification of that person.
13. The Term “Facial Data” shall refer to Biometric Data related to the facial appearance of a person.
14. The Term “Personal Information”, with respect to the obtaining and communication of such information shall refer to Location, Biometric or Facial Data, Any Data that would Reveal the Individual is In a Protected Class, Or any other Data determined by the director to be sensitive and vital enough to be protected under this act.
15. The Term “Facial Recognition” shall be defined as any service or product that explicitly captures the facial data of any person.
16. The Term “Privacy Harm” shall refer to any harm done by an individual or entity arising from the collection, processing, maintenance, or disclosure of personal information, including Economic, physical, reputational or psychological harm, adverse outcomes or decisions with respect to the eligibility of an individual for rights, benefits, or privileges in employment, credit and insurance, housing, education, professional certification, or the provision of health care and related services, price discrimination or any other negative effects that result from the data breach, as determined by the Director.
17. The term “Protected class” shall refer to the actual or perceived Race, Ethnicity, National Origin, Religion, Sexual Orientation, Gender Identity, Familial Status, or Disability of an Individual.

18. The term “Third-Party” shall refer to an Individual or Entity that has been disclosed personal information by a separate Individual or Entity and is not that Individual or Entity, A subsidiary of that Entity, or a service provider of that Individual or entity.
19. The term “The Website” shall refer to the henceforth established website of the agency for online Privacy and Security.

SEC. 4 — Rights and Freedoms

1. The “Data Privacy Protection Act” Is hereby abolished.
2. Any entity or individual that intentionally collects, processes, or maintains personal information and sends or receives such personal information over the internet or a similar communications network (Henceforth referred to as a data collector for the purposes of this bill) shall Maintain the following rights and freedoms:
 - A. The right to know- Any data collector shall make available a reasonable mechanism by which an individual may access:
 - a. Any personal information collected by the Data Collector, and If it was not willingly given by the individual, how it was collected.
 - b. A list of the third parties, subsidiaries, and corporate affiliates, to which the data collector has disclosed or obtained personal information on the individual from.
 - c. An explanation of the business and monetary intents the data collector has with the data listed in subparagraphs (a) and (b).
 - d. Any automated processes as per paragraph E.
 - e. Any other information determined to be vital to the individual by the director.
 - B. The right to correct-
 - a. Any data collector shall make available a reasonable mechanism by which an individual may:
 - (I) Dispute the accuracy or completeness of Personal Information linked to such individuals that are maintained by the data collector, And shown as per the right to know mentioned in paragraph A of this Section.
 - (II) Request a correction to the data disputed under clause (I)
 - (III) See any new information of changes in the status of such data.
 - (IV) Submit a request to the director for intervention if there are disagreements on removal policy.
 - b. Upon receiving a dispute under clause I of the previous paragraph, the data collector shall:

(I) Notify the Individuals on whether the data is correct or complete, lacks the information to know whether the data is correct or complete, or believes the data is incorrect or incomplete.

(II) If the data collector believes the data is incorrect or incomplete, and the Individual requests to change it, the data collector shall change the data they store within 60 days.

- c. If there are reasonable disagreements on the state of the data, as per clause(I) of paragraph(b) of this subsection, the Individual is reserved the right to file a report staging the data needed to be corrected to the director, and the director may mandate the information be corrected. The director shall, at all times, maintain public access to a form to which such a report may be submitted, and post it on the website, as per Section 7 of this act.

C. The right to be forgotten-

- a. Any data collector shall make available a reasonable mechanism by which an individual may request the deletion of personal information and contents of communications of such individual maintained by the data collector, including any such information that the data collector acquired from a third party or inferred from other information maintained by the data collector, as per paragraph A.

- b. Upon receiving a dispute under clause I of the previous paragraph, the data collector shall:

(I) Notify the Individuals on whether the data is correct or complete, lacks the information to know whether the data is correct or complete, or believes the data is incorrect or incomplete.

(II) If the data collector believes the data is incorrect or incomplete, and the Individual requests to delete it, the data collector shall delete the data they store within 60 days.

- c. If there are reasonable disagreements on the state of the data, as per clause(I) of paragraph(b) of this subsection, the Individual is reserved the right to file a report staging the data needed to be corrected to the director, and the director may mandate the data be deleted. The director shall, at all times, maintain public access to a form to which such a report may be submitted, and post it on the website, as per Section 7 of this act.

D. The right of human review-

- a. For any decision by a covered entity based solely on automated processing of personal information of an individual, if such processing increases reasonably

foreseeable significant privacy harms for such individual, the data collector shall Inform such individual of what personal information is or may be used for such decision and make available a reasonable mechanism by which such individual may request a human review of such decision.

- b. If the Individual requests a human review of the results of the processing, The Data collector shall ensure the conducting of a human review within 30 days.
- c. The Data collector may submit a request for extensions to the director for human reviews, which the director may decide to accept or not.
- d. The director shall, at all times, maintain public access to a form to which such a report may be submitted, and post it on the website, as per Section 7 of this act.

E. The freedom from targeted advertisement-

- a. A data collector shall not collect, process, maintain, or disclose an individual's personal information to create, improve on, maintain or create an algorithm, model, or other means designed for the creation of targeted advertising without explicit permission from any individual.
- b. For all websites, applications, programs, or services that run targeted advertisements—
 - (I) Upon the creation of a new account, the setting(s) for targeted advertising shall be off by default.
 - (II) At the end of a two month period upon the passage of this bill, all currently existing accounts shall have the setting(s) for targeted advertising be turned off.
 - (III) For any visitor to a website that is not logged-in to any account, it shall be prohibited to present the visitor with any targeted advertisements.
 - (IV) It shall be prohibited to discriminate against any user based on their choice for the previously mentioned setting(s), such as blocking off portions of the website in exchange for the user turning the setting(s) on.
- c. Any website that deals with targeted advertising shall, In clear letters, On its front page, declare that it uses targeted advertising.

3. The following exemptions from the rights listed in Paragraph 1 shall be listed:

- a. A data provider may request a “small business exclusion” from enforcing any of the rights listed in paragraph 1. The Director shall

determine which businesses are “small businesses”, provided that they do not earn any revenue from the sale of personal information, have not, at any time during the preceding 6-month period, maintained personal information of 250,000 or more individuals, have fewer than 200 employees, and have received less than 25 million dollars in the past fiscal year. The director shall, at all times, maintain public access to a form to which such a request may be submitted, and post it on the website, as per Section 7 of this act.

- b. These rights do not apply to data collected for the purposes of detecting, responding to, or preventing security incidents or threats, protecting against malicious software, complying with decisions by law enforcement, court or other legal requirements, protecting public safety, preventing data abuse by a banned individual, or Routing a communication through a communications network or resolving the location of a host or client on a communications network.
- c. These rights do not apply in cases where protection of these rights requires the reidentification of previously de-identified data.

SEC. 5 — Other Restrictions on Data Collectors

- 1. It shall be prohibited for any data collector to request from the user more data than is necessary for smooth operation of the product or service.
- 2. It shall be prohibited for companies to prohibit the user to change the default search engine for any piece of software that utilizes one.
- 3. Any Privacy Policy, Terms of Use, EULA, or any similar legal contract with a user must provide a short, accessible, clear, and simple summary of all points included within the legal text and permissions granted by the user so as to ascertain explicit consent, and be typed in a clear font with at least 20% spacing between lines.
- 4. Once a data breach has been identified within a company, any and all relevant authorities must be notified within 48 hours.
- 5. Any data collector may not intentionally disclose personal information without including the purpose for which the personal information was originally collected.
- 6. A Data-Collector shall not discriminate against a consumer based on the fact that the consumer exercised any of their rights under section 4 of this Act.
- 7. Notwithstanding Sections 1 and 6, consent is not required for a disclosure (not including sale) of de-identified personal information where the disclosed personal information is limited to the narrowest possible scope likely to yield the intended benefit, provided they prohibit any attempts at

re-identification of said data and they do not contain any information that would help Re-Identify said data.

8. A Data-Collector may not, under any circumstance, reidentify any data, Nor allow a third party that they supply De-Identified Data to reidentify said Data.

SEC. 6 — The Agency for Online Privacy and Security

1. There is hereby established under the Federal Trade Commission, a governmental instrumentality of the U.S. Government, to act by its authority under the title of The Agency for Online Privacy and Security.
2. There is hereby established a position of “The Director of The Agency for Online Privacy and Security”, who shall serve as the head of the Agency.
3. The Director shall be nominated by the governor, with the advice and consent of the Secretary of Internal affairs, And confirmed by the Senate of the United States.
4. The Director, Unless removed from office by a majority vote of members of both houses, Shall Serve A five-year term unless renominated.
5. The Director shall delegate a portion of their powers to a democratically operating board of members(hereafter referred to as the board), as appointed by the president, and confirmed by the United States Senate.

SEC. 7 — The Board of Members Powers and Duties

1. The Board shall have the power to—
 - a. Adopt an official seal;
 - b. Sue and be sued in its own name;
 - c. Make contracts and execute all instruments necessary or convenient for the carrying on of the purposes of this bill.
 - d. Acquire, own, hold, dispose of and encumber personal, real or intellectual property of any nature or any interest related to its duties therein.
 - e. Appoint officers, engage and employ employees, including legal counsel, consultants, agents and advisors and prescribe their duties and fix their compensations.
 - f. Make, amend and repeal by-laws, rules and regulations for the management of its affairs.
 - g. Prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Agency to administer and carry out the purposes and objectives of this Act, and to prevent evasions thereof.
2. The Board shall-
 - a. Create a website, which shall host information about the operations of the Agency, as well as contain any and all forms for requests or reports specified in this Act.

- b. Create an academic unit, to track research, and decide whether restrictions on the conduction of research should be added or removed.
- c. Create a small business unit, to handle all small business exceptions present in this Act.

SEC. 8 — Audits

1. The Secretary of Internal Affairs shall order a semi-annual audit into the operations of the Agency, ensuring they remain loyal to the purposes and text of this Act.

SEC. 9 — Enactment

2. Should any part of this bill be considered unconstitutional and struck, all other sections shall remain valid.
3. For any section of any bill that contradicts any section of this act, the contradictory section of the previous bill shall be struck and nullified.
4. This bill shall go into effect no more than one year after passage by congress and the signature of the President of the United States.