

## Section-by-Section Analysis and Explanation

### The Online Civil Rights and Privacy Act of 2019

#### **Sec 1. PURPOSES**

The purposes of this act are to address civil rights violations and other discriminatory impacts of online advertising, commerce, and services through, among other things, applying the laws of public accommodations to those services and facilitating analyses of disparate impacts on protected classes from data processing by those services.

#### **Sec. 2. DEFINITIONS**

Section 2 defines the terms “biometric information”, “Commission”, “Covered entity”, “Data Broker”, “Disclosing”, “Individual”, “Personal Device”, “Personal Health Information”, “Personal Information”, “Privacy Risk”, “Processing”, “Service Provider”, “Small Business”, “State”, and “Third Party” as used in this act.

#### **SECTION 3 – DISCRIMINATORY PRACTICES AND EQUAL OPPORTUNITY**

Section 3 is based on the Fair Housing Act and other similar federal civil rights statutes. It prevents the processing of personal information in a manner that discriminates against protected classes in matters of employment, credit, insurance, housing, education opportunities, and in the right to vote.

#### **SECTION 4 – UNFAIR PROCESSING PRACTICES**

Section 4 requires that a covered entity shall only process personal information in a manner relevant and necessary for the purpose specified in the entity’s privacy notice. That processing must also be reasonably foreseeable by an ordinary individual.

Covered entities may not engage in the following types of processing or use the following types of data when that processing or usage is not required to provide the service: biometric information tracking, precise location information, tracking of children under 13, content of communications, sensor recordings, personal health information, sexual life information.

#### **SECTION 5 – DECEPTIVE PROCESSING PRACTICES**

Section 5 makes it unlawful for covered entities to make material misrepresentations with regards to processing personal information.

## **SECTION 6 – INDIVIDUAL RIGHTS TO PERSONAL INFORMATION**

Section 6 gives individuals the right, subject to exceptions promulgated by the Federal Trade Commission, to access personal information about them held by covered entities.

## **SECTION 7 – TRANSPARENCY**

Section 7 requires covered entities to make information about their privacy policies available. It also requires them to submit thorough annual privacy reports, and directs the Federal Trade Commission to promulgate a model privacy notice for small businesses.

## **SECTION 8 – PROTECTION OF PERSONAL INFORMATION**

Section 8 requires a covered entity to secure the personal information it processes.

## **SECTION 9 – RULEMAKING AUTHORITY FOR FEDERAL TRADE COMMISSION**

Section 9 grants general rulemaking authority to the Federal Trade Commission to implement this act.

## **SECTION 10 – ENFORCEMENT**

Section 10 gives the Federal Trade Commission the power to enforce this act. It also gives States the power to enforce provisions of this act as a civil action. It gives the Department of Justice Civil Rights Division the power to enforce the civil rights provisions of this act. Lastly, it provides for a private right of action.

## **SECTION 11 – PERSONNEL FOR THE COMMISSION AND CONGRESSIONAL OFFICE OF TECHNOLOGY ASSESSMENT**

Section 11 provides for additional personnel at the Federal Trade Commission, establishes a Bureau of Technology at the Federal Trade Commission, and re-establishes a Congressional Office of Technology Assessment.

## **SECTION 12 – REPORTS TO CONGRESS**

Section 12 requires the Federal Trade Commission, the Department of Housing and Urban Affairs, the Equal Employment Opportunity Commission, the Consumer Financial Protection Bureau, the Department of Education, the Department of Health and Human

Services and the Department of Veterans affairs to submit reports regarding the processing of personal information by covered entities that results in disparities for protected classes and others.

#### **SECTION 12 – EFFECTIVE DATE**

Section 12 makes the effective date two years after the act's enactment.

#### **SECTION 13 – RELATION TO OTHER LAW**

Section 13 describes the relationship of this act to State and other laws.

#### **SECTION 14 – SEVERABILITY**

Section 14 concerns the severability of any provision of the act that is held unconstitutional or otherwise invalid.