

SENATE No. 120

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to consumer data privacy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2019</i>

SENATE No. 120

By Ms. Creem, a petition (accompanied by bill, Senate, No. 120) of Cynthia Stone Creem, Tommy Vitolo, Michael O. Moore and James B. Eldridge for legislation relative to consumer data privacy. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to consumer data privacy.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 93K the
2 following chapter:-

3 CHAPTER 93L.

4 Consumer Data Privacy.

5 Section 1. Definitions.

6 As used in this chapter, the following words shall, unless the context clearly requires
7 otherwise, have the following meanings:

8 (a) “Aggregate consumer information” means information that relates to a group or
9 category of consumers, from which individual consumer identities have been removed, that is
10 not linked or reasonably linkable to any consumer, including via a device. “Aggregate consumer

11 information” does not mean one or more individual consumer records that have been
12 de-identified.

13 (b) “Biometric information” means an individual’s physiological, biological or behavioral
14 characteristics, including an individual’s DNA, that can be used, singly or in combination with
15 each other or with other identifying data, to establish individual identity. Biometric information
16 includes, but is not limited to, imagery of the iris, retina, fingerprint, face, hand, palm, vein
17 patterns, and voice recordings, from which an identifier template, such as a faceprint, a minutiae
18 template, or a voiceprint, can be extracted, and keystroke patterns or rhythms, gait patterns or
19 rhythms, and sleep, health, or exercise data that contain identifying information.

20 (c) “Business” means:

21 (1) A sole proprietorship, partnership, limited liability company, corporation, association,
22 or other legal entity that is:

23 (A) organized or operated for the profit or financial benefit of its shareholders or other
24 owners;

25 (B) that collects Massachusetts consumers’ personal information; and

26 (C) Satisfies one or more of the following thresholds:

27 (i) Has annual gross revenues in excess of \$10,000,000, as adjusted pursuant to paragraph
28 (5) of subdivision (a) of section 11; or

29 (ii) Derives 50 percent or more of its annual revenues from third party disclosure of
30 consumers’ personal information.

31 (2) Any entity that controls or is controlled by a business, as defined in paragraph (1), and
32 that shares common branding with the business. “Control” or “controlled” means ownership of,
33 or the power to vote, more than 50 percent of the outstanding shares of any class of voting
34 security of a business; control in any manner over the election of a majority of the directors, or of
35 individuals exercising similar functions; or the power to exercise a controlling influence over the
36 management of a company. “Common branding” means a shared name, servicemark, or
37 trademark.

38 (d) “Business purpose” means the reason for the use of personal information by a
39 business or a service provider.

40 (e) “Collects,” “collected,” or “collection” means buying, renting, gathering, obtaining,
41 receiving, or accessing any personal information pertaining to a consumer by any means. This
42 includes receiving information from the consumer, either actively or passively, or by observing
43 the consumer’s behavior.

44 (f) “Consumer” means a natural person who resides in the Commonwealth.

45 (g) “Deidentified” means information that cannot reasonably identify, relate to, describe,
46 be capable of being associated with, or be linked, directly or indirectly, to a particular consumer,
47 provided that a business that uses deidentified information:

48 (1) Has implemented technical safeguards that prohibit reidentification of the consumer
49 to whom the information may pertain;

50 (2) Has implemented business processes that specifically prohibit reidentification of the
51 information;

52 (3) Has implemented business processes to prevent inadvertent release of deidentified
53 information; and

54 (4) Makes no attempt to reidentify the information.

55 (h) “Designated methods for submitting requests” means a mailing address, email
56 address, Internet Web page, Internet Web portal, toll-free telephone number, or other applicable
57 contact information, whereby consumers may submit a request or direction under this chapter,
58 and any new, consumer-friendly means of contacting a business, as approved by the attorney
59 general pursuant to paragraph (4) of subdivision (a) of section 11.

60 (i) “Device” means any physical object that is capable of connecting to the Internet,
61 directly or indirectly, or to another device.

62 (j) “Homepage” means the introductory page of an Internet Web site and any Internet
63 Web page where personal information is collected. In the case of an online service, such as a
64 mobile application, homepage means the application’s platform page or download page, a link
65 within the application, such as from the application configuration, “About,” “Information,” or
66 settings page, and any other location that allows consumers to review the notice required by
67 subdivision (a) of section 2, including, but not limited to, before downloading the application.

68 (k) “Infer” or “inference” means the derivation of information, data, assumptions, or
69 conclusions from facts, evidence, or another source of information or data.

70 (l) “Person” means an individual, proprietorship, firm, partnership, joint venture,
71 syndicate, business trust, company, corporation, limited liability company, association,
72 committee, and any other organization or group of persons acting in concert.

73 (m) (1) “Personal information” means any information relating to an identified or
74 identifiable consumer. “Personal information” means information that identifies, relates to,
75 describes, is capable of being associated with, or could reasonably be linked, directly or
76 indirectly, with a particular consumer or the consumer’s device.

77 (2) “Personal information” does not include publicly available information. For these
78 purposes, “publicly available” means information that is lawfully made available from federal,
79 state, or local government records. “Publicly available” does not mean biometric information
80 collected by a business about a consumer without the consumer’s knowledge.

81 (3) “Personal information” does not include consumer information that is deidentified or
82 aggregate consumer information.

83 (n) “Probabilistic identifier” means the identification of a consumer or a device to a
84 degree of certainty of more probable than not based on any categories of personal information
85 included in, or similar to, the categories enumerated in the definition of personal information.

86 (o) “Processing” means any operation or set of operations that are performed on personal
87 data or on sets of personal data, whether or not by automated means.

88 (p) “Pseudonymize” or “Pseudonymization” means the processing of personal
89 information in a manner that renders the personal information no longer attributable to a specific
90 consumer without the use of additional information, provided that the additional information is
91 kept separately and is subject to technical and organizational measures to ensure that the personal
92 information is not attributed to an identified or identifiable consumer.

93 (q) “Research” means scientific, systematic study and observation, including basic
94 research or applied research that is in the public interest and that adheres to all other applicable
95 ethics and privacy laws or studies conducted in the public interest in the area of public health.
96 Research with personal information that may have been collected from a consumer in the course
97 of the consumer’s interactions with a business’s service or device for other purposes shall be:

98 (1) Used solely for research purposes which are compatible with the context in which the
99 personal information was collected;

100 (2) Not be used for any commercial purpose;

101 (3) Subsequently pseudonymized and deidentified, or deidentified and in the aggregate,
102 such that the information cannot reasonably identify, relate to, describe, be capable of being
103 associated with, or be linked, directly or indirectly, to a particular consumer;

104 (4) Made subject to technical safeguards that prohibit reidentification of the consumer to
105 whom the information may pertain;

106 (5) Subject to business processes that specifically prohibit reidentification of the
107 information;

108 (6) Made subject to business processes to prevent inadvertent release of deidentified
109 information;

110 (7) Protected from any reidentification attempts; and

111 (8) Subjected by the business conducting the research to additional security controls limit
112 access to the research data to only those individuals in a business as are necessary to carry out
113 the research purpose.

114 (r) “Service” or “services” means work, labor, and services, including services furnished
115 in connection with the sale or repair of goods.

116 (s) “Service provider” means a sole proprietorship, partnership, limited liability company,
117 corporation, association, or other legal entity that is organized or operated for the profit or
118 financial benefit of its shareholders or other owners, that processes information on behalf of a
119 business and to which the business discloses a consumer’s personal information for a business
120 purpose pursuant to a written contract, provided that the contract prohibits the entity receiving
121 the information from retaining, using, or disclosing the personal information for any purpose
122 other than for the specific purpose of performing the services specified in the contract for the
123 business, or as otherwise permitted by this chapter.

124 (t) “Third party” means a person who is not the business that collects personal
125 information from consumers under this chapter or a service provider of that business.

126 (u) “Third party disclosure” means any transfer of a consumer’s personal information by
127 the business to a third party including, but not limited to, selling, renting, releasing,
128 disseminating, making available, transferring, or otherwise communicating orally, in writing, or
129 by electronic or other means.

130 For purposes of this chapter, a business does not engage in third party disclosure when:

131 (1) The business discloses personal information of a consumer to a service provider who
132 is necessary to the performance of a business purpose which is included in a Section 2 notice.

133 (2) The business identifies a consumer who has opted out of the sale of the consumer’s
134 personal information for the purpose of alerting third parties that the consumer has opted out of
135 the sale of the consumer’s personal information.

136 (3) The business transfers to a third party the personal information of a consumer as an
137 asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third
138 party assumes control of all or part of the business, provided that information is used or shared
139 consistently with the notice received by consumers in Section 2. If a third party materially alters
140 how it uses or shares the personal information of a consumer in a manner that is materially
141 inconsistent with the promises made at the time of collection, it shall provide prior notice of the
142 new or changed practice to the consumer. The notice shall be sufficiently prominent and robust
143 to ensure that existing consumers can easily exercise their rights under this chapter. This
144 subparagraph does not authorize a business to make material, retroactive privacy policy changes
145 or make other changes in their privacy policy in a manner that would violate the provisions of
146 chapter 93A prohibiting unfair and deceptive practices.

147 (v) “Unique identifier” or “Unique personal identifier” means a persistent identifier that
148 can be used to recognize a consumer or a device that is linked to a consumer, over time and
149 across different services, including, but not limited to:

150 (a) a device identifier;

151 (b) an Internet Protocol address;

152 (c) cookies, beacons, pixel tags, mobile ad identifiers, or similar technology;

153 (d) consumer number, unique pseudonym, or user alias; or

154 (e) telephone numbers, or other forms of persistent or probabilistic identifiers that can be
155 used to identify a particular consumer or device.

156 (w) “Verifiable consumer request” means a request that is made by a consumer, by a
157 consumer on behalf of the consumer’s minor child, or by a natural person or a person registered
158 with the Secretary of State, authorized by the consumer to act on the consumer’s behalf, and that
159 the business can reasonably verify, pursuant to regulations adopted by the attorney general
160 pursuant to section 11 to be the consumer about whom the business has collected personal
161 information.

162 Section 2. Notice At or Before Collection

163 (a) A business that collects a consumer’s personal information shall, at or before the
164 point of collection, notify a consumer of:

165 (1) The categories of personal information it will collect about that consumer;

166 (2) The business purposes for which the categories of personal information shall be used;

167 (3) The categories of third parties with whom the business discloses personal
168 information;

169 (4) The business purpose for third party disclosure; and

170 (5) The consumer’s rights to request:

171 (A) A copy of the consumer’s personal information, pursuant to section (3);

172 (B) The deletion of the consumer’s personal information, pursuant to section (5); and

173 (c) Opt-out of third party disclosure, pursuant to section (6).

174 (b) A business shall not collect additional categories of personal information or use
175 personal information collected for additional purposes without first providing the consumer with
176 notice consistent with this section.

177 Section 3. Verifiable Consumer Requests

178 (a) A consumer shall have the right to request that a business that collects a consumer's
179 personal information disclose to that consumer:

180 (1) The specific pieces of personal information the business has collected about that
181 consumer;

182 (2) The sources from which the consumer's personal information was collected;

183 (3) The names of third parties to whom the business disclosed the consumer's personal
184 information; and

185 (4) The business purpose for third party disclosure.

186 (b) A business shall provide the information specified in subdivision (a) to a consumer
187 only upon receipt of a verifiable consumer request.

188 (c) A business that receives a verifiable consumer request from a consumer to access
189 personal information shall promptly take steps to deliver, free of charge to the consumer, the
190 personal information required by this section. The information may be delivered by mail or
191 electronically, and if provided electronically, the information shall be in a portable and, to the
192 extent technically feasible, in a readily useable format that allows the consumer to transmit this

193 information to another entity without hindrance. A business may provide personal information to
194 a consumer at any time, but shall not be required to provide personal information to a consumer
195 more than twice in a 12-month period.

196 (d) This section shall not require a business to:

197 (1) Retain any personal information about a consumer collected for a single one-time
198 transaction if, in the ordinary course of business, that information about the consumer is not
199 retained;

200 (2) Reidentify or otherwise link any data that, in the ordinary course of business, is not
201 maintained in a manner that would be considered personal information; or

202 (3) Disclose any specific personal information that would adversely affect the legal rights
203 of other consumers.

204 (e) If verified requests from a consumer are manifestly unfounded or excessive, in
205 particular because of their repetitive character, a business may either charge a reasonable fee,
206 taking into account the administrative costs of providing the information or communication or
207 taking the action requested, or refuse to act on the request and notify the consumer of the reason
208 for refusing the request.

209 Section 4. Mechanism for Verifiable Consumer Requests.

210 (a) In order to comply with the sections of this chapter, a business shall, in a form that is
211 reasonably accessible to consumers make available to consumers two or more designated
212 methods for submitting consumer verified requests, including, if the business maintains an

213 internet web site, a link on the home page of the web site. The business shall not require the
214 consumer to create an account with the business in order to make a verifiable consumer request.

215 (b) In order to comply with the sections of this chapter, a business shall, deliver to a
216 consumer free of charge within 45 days of receiving a verifiable consumer request from the
217 consumer the information required in section 3 in a readily useable format that allows the
218 consumer to transmit this information from one entity to another entity without hindrance. The
219 time period to provide the required information may be extended once by an additional 45 days
220 when reasonably necessary, provided the consumer is provided notice of the extension within the
221 first 45-day period.

222 (c) A business is not obligated to provide the information required by section 3 to the
223 same consumer more than twice in a 12-month period.

224 (d) A business shall include the following information in its online privacy policy or
225 policies if the business has an online privacy policy or policies, or if the business does not
226 maintain those policies, on its Internet Web site, and update that information at least once every
227 12 months:

228 (1) The categories of personal information the business collects about consumers;

229 (2) The business purposes for which the categories of personal information are used;

230 (3) The categories of third parties with whom the business discloses personal
231 information;

232 (4) The business purpose for third party disclosure; and

233 (5) The consumer's rights to request:

- 234 (A) A copy of the consumer's personal information, pursuant to section (3);
- 235 (B) The deletion of the consumer's personal information, pursuant to section (5); and
- 236 (c) Opt-out of third party disclosure, pursuant to section (6).

237 (e) A business shall ensure that all individuals responsible for handling consumer

238 inquiries about the business's privacy practices or the business's compliance with this chapter

239 are informed of all requirements in this chapter and how to direct consumers to exercise their

240 rights.

241 (f) A business shall use any personal information collected from the consumer in

242 connection with the business's verification of the consumer's request solely for the purposes of

243 verification.

244 5. Right to Delete.

245 (a) A consumer shall have the right to request that a business delete any personal

246 information about the consumer which the business has collected from the consumer.

247 (b) A business that collects personal information about consumers shall disclose, pursuant

248 to section 2, the consumer's rights to request the deletion of the consumer's personal

249 information.

250 (c) A business that receives a verifiable consumer request from a consumer to delete the

251 consumer's personal information pursuant to subdivision (a) of this section shall delete the

252 consumer's personal information from its records and direct any service providers to delete the

253 consumer's personal information from their records.

254 (d) A business or a service provider shall not be required to comply with a consumer's
255 request to delete the consumer's personal information if it is necessary for the business or service
256 provider to maintain the consumer's personal information in order to:

257 (1) Complete the transaction for which the personal information was collected, provide a
258 good or service requested by the consumer, or reasonably anticipated within the context of a
259 business's ongoing business relationship with the consumer, or otherwise perform a contract
260 between the business and the consumer;

261 (2) Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal
262 activity; or prosecute those responsible for that activity;

263 (3) Identify or repair errors that impair existing intended functionality;

264 (4) Exercise free speech, ensure the right of another consumer to exercise his or her right
265 of free speech, or exercise another right provided for by law;

266 (5) Engage in public or peer-reviewed scientific, historical, or statistical research in the
267 public interest that adheres to all other applicable ethics and privacy laws, when the businesses'
268 deletion of the information is likely to render impossible or seriously impair the achievement of
269 such research, if the consumer has provided informed consent; or

270 (6) Comply with a legal obligation.

271 Section 6. Right to Opt-out of Third Party Disclosure.

272 (a) A consumer shall have the right, at any time, to demand that a business not disclose
273 the consumer's personal information to third parties. This right may be referred to as the right to
274 opt-out of third part disclosure.

275 (b) Notwithstanding subdivision (a), a business shall not disclose the personal
276 information of a consumer to a third party if the business has actual knowledge or willfully
277 disregards the fact that the consumer is less than 18 years of age.

278 (c) A business that has received direction from a consumer not to disclose the consumer's
279 personal information to third parties shall be prohibited from such disclosure unless the
280 consumer later provides express authorization for that disclosure. However, a business shall not
281 request such authorization for at least 12 months.

282 (d) In order to comply with this section, a business shall provide a clear and conspicuous
283 link on the business's Internet homepage, titled "Do Not Share My Personal Information," to an
284 Internet Web page that enables a consumer, or a person authorized by the consumer, to opt-out of
285 the third party disclosure of the consumer's personal information. A business shall not require a
286 consumer to create an account in order to exercise this right.

287 (e) A consumer may authorize another person solely to opt-out of the sale of the
288 consumer's personal information on the consumer's behalf, and a business shall comply with an
289 opt-out request received from a person authorized by the consumer to act on the consumer's
290 behalf, pursuant to regulations adopted by the attorney general.

291 Section 7. No Penalty for Exercise of Rights.

292 A business shall not discriminate against a consumer because the consumer exercised any
293 of the consumer's rights under this chapter, including, but not limited to, by:

294 (a) Denying goods or services to the consumer;

295 (b) Charging different prices or rates for goods or services, including through the use of
296 discounts or other benefits or imposing penalties;

297 (c) Providing a different level or quality of goods or services to the consumer; or

298 (d) Suggesting that the consumer will receive a different price or rate for goods or
299 services or a different level or quality of goods or services.

300 Section 8. Exemptions.

301 (a) The obligations imposed by this chapter shall not restrict any business or third party's
302 ability to:

303 (1) Comply with federal, state, or local laws;

304 (2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or
305 summons by federal, state, or local authorities;

306 (3) Cooperate with law enforcement agencies concerning conduct or activity that the
307 business, service provider, or third party reasonably and in good faith believes may violate
308 federal, state, or local law;

309 (4) Exercise legal rights or privileges; or

310 (5) Engage in news gathering activities protected by the First Amendment.

311 (b) This chapter shall not apply to any of the following:

312 (1) A business collecting or disclosing personal information of the business’s employees
313 so long as the business is collecting or disclosing such information within the scope of its role as
314 an employer.

315 (2) Health information that is collected by a covered entity or business associate
316 governed by the privacy, security, and breach notification rules issued by the United States
317 Department of Health and Human Services in 45 C.F.R. parts 160 and 164, established pursuant
318 to the federal Health Insurance Portability and Accountability Act of 1996 and the federal Health
319 Information Technology for Economic and Clinical Health Act.

320 (3) A covered entity governed by the privacy, security, and breach notification rules
321 issued by the United States Department of Health and Human Services in 45 C.F.R. parts 160
322 and 164, established pursuant to the federal Health Insurance Portability and Accountability Act
323 of 1996, to the extent the provider or covered entity maintains patient information in the same
324 manner as medical information or protected health information as described in subparagraph (2)
325 of this section.

326 (4) Information collected as part of a clinical trial subject to the Federal Policy for the
327 Protection of Human Subjects, also known as the Common Rule, pursuant to good clinical
328 practice guidelines issued by the International Council for Harmonisation or pursuant to human
329 subject protection requirements of the United States Food and Drug Administration.

330 (5) Sale of personal information to or from a consumer reporting agency if that
331 information is to be reported in, or used to generate, a “consumer report” as defined by 15 U.S.C.
332 section 1681(a) and use of that information is limited by the federal Fair Credit Reporting Act,
333 15 U.S.C. section 1681 et seq..

334 (6) Personal information collected, processed, sold, or disclosed pursuant to the federal
335 Gramm-Leach-Bliley Act, 12 U.S.C. section 24(a) et seq. and implementing regulations.

336 (7) Personal information collected, processed, sold, or disclosed pursuant to the federal
337 Driver's Privacy Protection Act of 1994, 18 U.S.C. section 2721 et seq.;

338 (8) Education information covered by the federal Family Educational Rights and Privacy
339 Act, 20 U.S.C. section 1232g and 34 C.F.R. part 99.

340 Section 9. Private Right of Action.

341 (a) A consumer who has suffered a violation of this chapter may bring a lawsuit against
342 the business or service provider that violated this chapter. A violation of this chapter shall
343 constitute an injury in fact to the consumer who has suffered the violation, and the consumer
344 need not suffer a loss of money or property as a result of the violation in order to bring an action
345 for a violation of this chapter.

346 (b) A consumer who prevails in such a lawsuit shall be entitled to the following remedies:

347 (1) Damages in an amount not greater than seven hundred and fifty (\$750) per consumer
348 per incident or actual damages, whichever is greater;

349 (2) Injunctive or declaratory relief, as the court deems proper;

350 (3) Reasonable attorney fees and costs; and

351 (4) Any other relief the court deems proper.

352 (c) In assessing the amount of statutory damages, the court shall consider any one or
353 more of the relevant circumstances presented by any of the parties to the case, including, but not

354 limited to, the nature and seriousness of the misconduct, the number of violations, the persistence
355 of the misconduct, the length of time over which the misconduct occurred, the willfulness of the
356 defendant's misconduct, and the defendant's assets, liabilities, and net worth.

357 (d) Upon commencement of any action brought under this section, the clerk of the court
358 shall mail a copy of the bill in equity to the attorney general and, upon entry of any judgment or
359 decree in the action, the clerk of the court shall mail a copy of such judgment or decree to the
360 attorney general.

361 Section 10. Attorney General Enforcement

362 (a) Whenever the attorney general has reason to believe that any business, service
363 provider, or other person is in violation of this chapter, and that proceedings would be in the
364 public interest, the attorney general may bring an action in the name of the commonwealth
365 against such person to restrain such violation by temporary restraining order or preliminary or
366 permanent injunction. In addition, the attorney general, in an action in the name of the
367 commonwealth, may seek a civil penalty of not more than \$2,500 for each violation or \$7,500
368 for each intentional violation.

369 (b) A business that discloses personal information to a service provider shall not be liable
370 under this chapter if the service provider receiving the personal information uses it in violation of
371 the restrictions set forth in this chapter, provided that, at the time of disclosing the personal
372 information, the business does not have actual knowledge, or reason to believe, that the service
373 provider intends to commit such a violation. A service provider shall likewise not be liable under
374 this chapter for the obligations of a business for which it provides services as set forth in this
375 chapter.

376 Section 11. Attorney General Regulations.

377 (a) On or before July 1, 2022, the attorney general shall solicit broad public participation
378 and adopt regulations to further the purposes of this chapter, including, but not limited to, the
379 following areas:

380 (1) Updating as needed additional categories of personal information to those enumerated
381 in subdivision (o) of section 1 and subdivision (b) of section 8 in order to address changes in
382 technology, data collection practices, obstacles to implementation and privacy concerns.

383 (2) Updating as needed the definition of unique identifiers to address changes in
384 technology, data collection, obstacles to implementation and privacy concerns.

385 (3) Establishing any exceptions necessary to comply with state or federal law, including,
386 but not limited to, those relating to trade secrets and intellectual property rights.

387 (4) Establishing rules and procedures for the following:

388 (A) To facilitate and govern the submission of verifiable consumer requests pursuant to
389 sections 3 through 6.

390 (B) To govern business and service provider's response to verifiable consumer requests
391 pursuant to sections 3 through 6.

392 (C) For the development and use of a recognizable and uniform opt-out logo or button by
393 all businesses to promote consumer awareness of the opportunity to opt-out third party disclosure
394 of consumer personal information.

395 (5) Adjusting the monetary threshold in subparagraph (C) of paragraph (1) of subdivision
396 (c) of section 1 in January of every odd-numbered year to reflect any increase in the United
397 States Bureau of Labor Statistics' Consumer Price Index.

398 (6) Establishing rules, procedures, and any exceptions necessary to ensure that the notices
399 and information that businesses are required to provide pursuant to this chapter are provided in a
400 manner that may be easily understood by the average consumer, are accessible to consumers
401 with disabilities, and are available in the language primarily used to interact with the consumer,
402 including establishing rules and guidelines regarding financial incentive offerings, within one
403 year of passage of this chapter and as needed thereafter.

404 (7) Establishing rules and procedures to further the purposes of sections 3 through 6, with
405 the goal of minimizing the administrative burden on consumers, taking into account available
406 technology, security concerns, and the burden on the business, to govern a business's
407 determination that a request for information received by a consumer is a verifiable consumer
408 request, including treating a request submitted through a password-protected account maintained
409 by the consumer with the business while the consumer is logged into the account as a verifiable
410 consumer request and providing a mechanism for a consumer who does not maintain an account
411 with the business to request information through the business's authentication of the consumer's
412 identity.

413 (b) The attorney general may adopt additional regulations as necessary to further the
414 purposes of this chapter and may update an regulations promulgated pursuant to this chapter as
415 needed.

416 (c) The attorney general shall not bring an enforcement action under this chapter until six
417 months after the publication of the final regulations issued pursuant to this section.

418 Section 12. Harmony with Other Laws.

419 Wherever possible, law relating to consumers' personal information should be construed
420 to harmonize with the provisions of this chapter, but in the event of a conflict between other laws
421 and the provisions of this chapter, the provisions of the law that afford the greatest protection for
422 the right of privacy for consumers shall control.

423 Section 13. Evasion.

424 If a series of steps or transactions where component parts of a single transaction were
425 taken with the intention of avoiding the reach of this chapter, a court shall disregard the
426 intermediate steps or transactions for purposes of effectuating the purposes of this chapter.

427 Section 14. Rights are Non-Waivable.

428 Any provision of a contract or agreement of any kind that purports to waive or limit in
429 any way a consumer's rights under this chapter, including, but not limited to, any right to a
430 remedy or means of enforcement, shall be considered contrary to public policy and shall be void
431 and unenforceable.

432 SECTION 2. This act shall take effect January 1, 2023.