AMENDMENT TO H.R. 7520

(PAGE AND LINE NUMBERS REFER TO DATA__BROKERS__01, DATED MARCH 5, 2024)

OFFERED BY MRS. TRAHAN OF MASSACHUSETTS

Page 1, line 4, strike "as the" and all that follows through the period at the end of line 5 and insert "as the 'Data Elimination and Limiting Extensive Tracking and Exchange Act' or the 'DELETE Act'.".

Page 2, strike line 1 and all that follows through page 9, line 6.

Add at the end of the bill the following:

1 **SEC. 2. DATA DELETION REQUIREMENTS.**

2   (a) DATA BROKER ANNUAL REGISTRATION.—

3   (1) IN GENERAL.—

4   (A) REGULATIONS.—Not later than 1 year

5   after the date of enactment of this section, the

6   Commission shall promulgate regulations to re-

7   quire any data broker to—

8   (i) not later than 18 months after the

9   date of enactment of this section, and an-

10   nually thereafter, register with the Com-

11   mission; and

1   (ii) subject to subparagraph (B), pro-
2   vide with such registration certain informa-
3   tion, including—

4   (I) the name and primary phys-
5   ical, email, and uniform resource loca-
6   tor (URL) addresses of the data
7   broker;

8   (II) if the data broker permits an
9   individual to opt out of the data bro-
10   ker's collection or use of personal in-
11   formation, certain sales of such infor-
12   mation, or its databases—

13   (aa) the method for request-
14   ing an opt-out;

15   (bb) any limitations on the
16   type of data collection, uses, or
17   sales for which an individual may
18   opt-out; and

19   (cc) whether the data broker
20   permits an individual to author-
21   ize a third party to perform the
22   opt-out on the individual's behalf;

23   (III) a response to a standard-
24   ized form (as issued by the Commis-
25   sion) specifying the types of informa-

1 tion the data broker collects or ob-

2 tains and the sources from which the

3 data broker obtains data;

4 (IV) a statement as to whether

5 the data broker implements a

6 credentialing process and, if so, a de-

7 scription of that process;

8 (V) any additional information or

9 explanation the data broker chooses to

10 provide concerning its data collection

11 practices; and

12 (VI) any other information deter-

13 mined appropriate by the Commission.

14 (B) CONSTRUCTION.—Nothing in this

15 paragraph shall be construed as requiring a

16 data broker to disclose any information that is

17 a trade secret or other kind of confidential in-

18 formation described in section 552(b)(4) of title

19 5, United States Code.

20 (2) PUBLIC AVAILABILITY.—

21 (A) IN GENERAL.—The Commission shall

22 make the information provided pursuant to

23 paragraph (1)(A)(ii) publicly available in a

24 downloadable and machine-readable format, ex-

25 cept in the event that the Commission—

1   (i) determines that the risk of making

2   such information available is not in the in-

3   terest of public safety or welfare; and

4   (ii) provides a justification for such

5   determination.

6   (B) DISCLAIMER.—The Commission shall

7   include on the website of the Commission a dis-

8   claimer that—

9   (i) the Commission cannot confirm

10   the accuracy of the information provided

11   pursuant to paragraph (1)(A)(ii); and

12   (ii) individuals may contact a data

13   broker who provided such information at

14   their own risk.

15 (b) CENTRALIZED DATA DELETION SYSTEM.—

16   (1) ESTABLISHMENT.—

17   (A) IN GENERAL.—Not later than 1 year

18   after the date of enactment of this section, the

19   Commission shall promulgate regulations to es-

20   tablish a centralized system that—

21   (i) implements and maintains reason-

22   able security procedures and practices (in-

23   cluding administrative, physical, and tech-

24   nical safeguards) appropriate to the nature

25   of the information and the purposes for

1   which the personal information will be
2   used, to protect individuals' personal infor-
3   mation from unauthorized use, disclosure,
4   access, destruction, or modification;
5   (ii) allows an individual, through a
6   single submission, to request that every
7   data broker who is registered under sub-
8   section (a) and who maintains any per-
9   sistent identifiers (as described in subpara-
10   graph (B)(iii))—
11   (I) delete any personal informa-
12   tion related to such individual held by
13   such data broker or affiliated legal en-
14   tity of the data broker; and
15   (II) unless otherwise specified by
16   the individual, discontinue any present
17   or future collection of personal infor-
18   mation related to such individual; and
19   (iii) allows a registered data broker,
20   prior to the collection of any personal in-
21   formation that is tied to a persistent iden-
22   tifier for which a registry exists, to submit
23   a query to the centralized system to con-
24   firm that the persistent identifier is not

6

1   subject to a deletion request described in

2   clause (ii).

3   (B) REQUIREMENTS.—The centralized sys-

4   tem established in subparagraph (A) shall meet

5   the following requirements:

6   (i) The centralized system shall allow

7   an individual to request the deletion of all

8   personal information related to such indi-

9   vidual and the discontinuation of any col-

10   lection of such personal information related

11   to such individual through a single deletion

12   request.

13   (ii) The centralized system shall pro-

14   vide a standardized form to allow an indi-

15   vidual to make such request.

16   (iii) Such standardized form shall in-

17   clude the individual's email, phone number,

18   physical address, and any other persistent

19   identifier determined by the Commission to

20   aid in the deletion request.

21   (iv) The centralized system shall auto-

22   matically salt and hash all submitted infor-

23   mation and allow the Commission to main-

24   tain independent hashed registries of each

1   type of information obtained through such

2   form.

3   (v) The centralized system shall only

4   permit data brokers who are registered

5   with the Commission to submit hashed

6   queries to the independent hashed reg-

7   istries described in clause (iv).

8   (vi) With respect to the independent

9   hashed registries described in clause (iv),

10   the salt shall be different for each such

11   registry and shall be made available to all

12   registered data brokers for the purposes of

13   submitting hashed queries, as described in

14   clause (v).

15   (vii) The centralized system shall

16   allow an individual to make such request

17   using an internet website operated by the

18   Commission.

19   (viii) The centralized system shall not

20   charge the individual to make such re-

21   quest.

22   (C) TRANSITION.—

23   (i) IN GENERAL.—Not later than 8

24   months after the effective date of the regu-

1 lations promulgated under subparagraph
2 (A), each data broker shall—

3   (I) not less than once every 31
4 days, access the hashed registries
5 maintained by the Commission as de-
6 scribed in subparagraph (B)(iv); and

7   (II) process any deletion request
8 associated with a match between such
9 hashed registries and the records of
10 the data broker.

11   (ii) FTC GUIDANCE.—Not later than
12 6 months after the effective date of the
13 regulations promulgated under subpara-
14 graph (A), the Commission shall publish
15 guidance on the process and standards to
16 which a data broker must adhere in car-
17 rying out clause (i).

18 (2) DELETION.—

19   (A) INFORMATION DELETION.—

20   (i) IN GENERAL.—Subject to clause
21 (ii), not later than 31 days after accessing
22 the hashed registries described in para-
23 graph (1)(B)(iv), a data broker and any
24 associated legal entity shall delete all per-
25 sonal information in its possession related

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1 to the individual making the request and
2 discontinue the collection of personal infor-
3 mation related to such individual. Imme-
4 diately following the deletion, the data
5 broker shall send an affirmative represen-
6 tation to the Commission with the number
7 of records deleted pursuant to each match
8 with a value in the hashed registries.

9 (ii) EXCLUSIONS.—In carrying out
10 clause (i), a data broker may retain, where
11 required, the following information:

12 (I) Any personal information that
13 is processed or maintained solely as
14 part of human subjects research con-
15 ducted in compliance with any legal
16 requirements for the protection of
17 human subjects.

18 (II) Any personal information
19 necessary to comply with a warrant,
20 subpoena, court order, rule, or other
21 applicable law.

22 (III) Any information necessary
23 for an activity described in subsection
24 (g)(3)(B), provided that the retained

1 information is used solely for any

2 such activity.

3 (iii) USE OF INFORMATION.—Any per-

4 sonal information excluded under clause

5 (ii) may only be used for the purpose de-

6 scribed in the applicable subclause of

7 clause (ii), and may not be used for any

8 other purpose, including marketing pur-

9 poses.

10 (B) ANNUAL REPORT.—Each data broker

11 registered under subsection (a) shall submit to

12 the Commission, on an annual basis, a report

13 on the completion rate with respect to the com-

14 pletion of deletion requests under subparagraph

15 (A).

16 (C) AUDIT.—

17 (i) IN GENERAL.—Not later than 3

18 years after the date of enactment of this

19 section, and every 3 years thereafter, each

20 data broker registered under subsection (a)

21 shall undergo an independent third party

22 audit to determine compliance with this

23 subsection.

24 (ii) AUDIT REPORT.—Not later than 6

25 months after the completion of any audit

1   under clause (i), each such data broker
2   shall submit to the Commission any report
3   produced as a result of the audit, along
4   with any related materials.

5   (iii) MAINTAIN RECORDS.—Each such
6   data broker shall maintain the materials
7   described in clause (ii) for a period of not
8   less than 6 years.

9   (3) ANNUAL FEE.—

10   (A) IN GENERAL.—Subject to subpara-
11   graph (B), each data broker registered under
12   subsection (a) and who maintains any per-
13   sistent identifiers (as described in paragraph
14   (1)(B)(iii)) shall pay to the Commission, on an
15   annual basis, a subscription fee determined by
16   the Commission to access the database.

17   (B) LIMIT.—The amount of the subscrip-
18   tion fee under subparagraph (A) may not ex-
19   ceed 1 percent of the expected annual cost of
20   operating the centralized system and hashed
21   registries described in paragraph (1), as deter-
22   mined by the Commission.

23   (C) AVAILABILITY.—Any amounts col-
24   lected by the Commission pursuant to this
25   paragraph shall be available without further ap-

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1 propriation to the Commission for the exclusive

2 purpose of enforcing and administering this sec-

3 tion, including the implementation and mainte-

4 nance of such centralized system and hashed

5 registries and the promotion of public aware-

6 ness of the centralized system.

7 (c) PROHIBITION.—It shall be unlawful for a data

8 broker to sell, license, rent, trade, transfer, release, dis

9 close, provide access to, or otherwise make available per-

10 sonal information of a United States individual to—

11 (1) any foreign adversary country; or

12 (2) any entity that is controlled by a foreign ad-

13 versary.

14 (d) ENFORCEMENT BY THE COMMISSION.—

15 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-

16 TICES.—A violation of subsection (a), (b), or (c) or

17 a regulation promulgated under this section shall be

18 treated as a violation of a rule defining an unfair or

19 deceptive act or practice under section 18(a)(1)(B)

20 of the Federal Trade Commission Act (15 U.S.C.

21 57a(a)(1)(B)).

22 (2) POWERS OF THE COMMISSION.—

23 (A) IN GENERAL.—The Commission shall

24 enforce this section in the same manner, by the

25 same means, and with the same jurisdiction,

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1   powers, and duties as though all applicable
2   terms and provisions of the Federal Trade
3   Commission Act (15 U.S.C. 41 et seq.) were in-
4   corporated into and made a part of this section.
5   (B) PRIVILEGES AND IMMUNITIES.—Any
6   person who violates subsection (a), (b), or (c) or
7   a regulation promulgated under this section
8   shall be subject to the penalties and entitled to
9   the privileges and immunities provided in the
10   Federal Trade Commission Act (15 U.S.C. 41
11   et seq.).
12   (C) AUTHORITY PRESERVED.—Nothing in
13   this section shall be construed to limit the au-
14   thority of the Commission under any other pro-
15   vision of law.
16   (D) RULEMAKING.—The Commission shall
17   promulgate in accordance with section 553 of
18   title 5, United States Code, such rules as may
19   be necessary to carry out this section.
20   (e) STUDY AND REPORT.—
21   (1) STUDY.—The Commission shall conduct a
22   study on the implementation and enforcement of this
23   section. Such study shall include—

1   (A) an analysis of the effectiveness of the

2 centralized system established in subsection

3 (b)(1)(A);

4   (B) the number deletion requests sub-

5 mitted annually using such centralized system;

6   (C) an analysis of the progress of coordi-

7 nating the operation and enforcement of such

8 requests with similar systems established and

9 maintained by the various States; and

10   (D) any other area determined appropriate

11 by the Commission.

12 (2) REPORT.—Not later than 3 years after the

13 date of enactment of this section, and annually

14 thereafter for each of the next 4 years, the Commis-

15 sion shall submit to the Committee on Commerce,

16 Science, and Transportation of the Senate and the

17 Committee on Energy and Commerce of the House

18 of Representatives a report containing—

19   (A) the results of the study conducted pur-

20 suant to paragraph (1);

21   (B) a summary of any enforcement actions

22 taken pursuant to this Act; and

23   (C) recommendations for any legislation

24 and administrative action as the Commission

25 determines appropriate.

1 (f) PREEMPTION.—

2   (1) IN GENERAL.—The provisions of this Act

3 shall preempt any State privacy law only to the ex-

4 tent that such State law is inconsistent with the pro-

5 visions of this Act.

6   (2) GREATER PROTECTION UNDER STATE

7 LAW.—For purposes of paragraph (1), a State pri-

8 vacy law is not inconsistent with the provisions of

9 this Act if the protection such law affords any per-

10 son is greater than the protection provided under

11 this Act, as determined by the Commission.

12 (g) DEFINITIONS.—In this section:

13   (1) COMMISSION.—The term "Commission"

14 means the Federal Trade Commission.

15   (2) CONTROLLED BY A FOREIGN ADVERSARY.—

16 The term "controlled by a foreign adversary" means,

17 with respect to an entity, that such entity is—

18   (A) a foreign person that is domiciled in,

19   is headquartered in, has its principal place of

20   business in, or is organized under the laws of

21   a foreign adversary country;

22   (B) an entity with respect to which a for-

23   eign person or combination of foreign persons

24   described in subparagraph (A) directly or indi-

25   rectly own at least a 20 percent stake; or

1   (C) a person subject to the direction or

2   control of a foreign person or entity described

3   in subparagraph (A) or (B).

4   (3) CREDENTIALING PROCESS.—The term

5 ''credentialing process'' means the practice of taking

6 reasonable steps to confirm—

7   (A) the identity of the entity with whom

8   the data broker has a direct relationship;

9   (B) that any data disclosed to the entity

10   by such data broker will be used for the de-

11   scribed purpose of such disclosure; and

12   (C) that such data will not be used for un-

13   lawful purposes.

14   (4) DATA BROKER.—

15   (A) IN GENERAL.—The term ''data

16   broker'' means an entity that knowingly collects

17   or obtains the personal information of an indi-

18   vidual with whom the entity does not have a di-

19   rect relationship and then—

20   (i) uses the personal information to

21   perform a service for a third party; or

22   (ii) sells, licenses, trades, provides for

23   consideration, or is otherwise compensated

24   for disclosing personal information to a

25   third party.

1   (B) EXCLUSION.—The term "data broker"

2   does not include an entity who solely uses, sells,

3   licenses, trades, provides for consideration, or is

4   otherwise compensated for disclosing personal

5   information for 1 or more of the following ac-

6   tivities:

7   (i) Providing 411 directory assistance

8   or directory information services, including

9   name, address, and telephone number, on

10   behalf of or as a function of a tele-

11   communications carrier.

12   (ii) Providing an individual's publicly

13   available information if the information is

14   being used by the recipient as it relates to

15   that individual's business or profession.

16   (iii) Providing personal information to

17   a third party at the express direction of

18   the individual for a clearly disclosed single-

19   use purpose.

20   (iv) Providing or using personal infor-

21   mation for assessing, verifying, or authen-

22   ticating an individual's identity, or for in-

23   vestigating or preventing actual or poten-

24   tial fraud.

1 　　　　(v) Gathering, preparing, collecting,
2 　　photographing, recording, writing, editing,
3 　　reporting, or publishing news or informa-
4 　　tion that concerns local, national, or inter-
5 　　national events or other matters of public
6 　　interest (as determined by the Commis-
7 　　sion) for dissemination to the public.

8 　　　　(vi) Acting as a consumer reporting
9 　　agency (as defined in section 603(f) of the
10 　　Fair Credit Reporting Act (15 U.S.C.
11 　　1681a(f))).

12 　　　　(vii) Acting as a service provider.

13 　　(C) EXCLUSION FROM SALE.—

14 　　　　(i) IN GENERAL.—For purposes of
15 　　this paragraph, the term ''sells'' does not
16 　　include a one-time or occasional sale of as-
17 　　sets of an entity as part of a transfer of
18 　　control of those assets that is not part of
19 　　the ordinary conduct of the entity.

20 　　　　(ii) NOTICE REQUIRED.—To meet the
21 　　exclusion criteria described in clause (i), an
22 　　entity must provide notice to the Commis-
23 　　sion, in the manner determined appro-
24 　　priate by the Commission, of any such one-
25 　　time or occasional sale of assets.

1 (5) DELETE.—The term "delete" means to re-
2 move or destroy information such that the informa-
3 tion is not maintained in human- or machine-read-
4 able form and cannot be retrieved or utilized in such
5 form in the normal course of business.

6 (6) DIRECT RELATIONSHIP.—

7 (A) IN GENERAL.—The term "direct rela-
8 tionship" means a relationship between an indi-
9 vidual and an entity where the individual—

10 (i) is a current customer;

11 (ii) has obtained a good or service
12 from the entity within the prior 18
13 months; or

14 (iii) has made an inquiry about the
15 products or services of the entity within
16 the prior 90 days.

17 (B) EXCLUSION.—The term "direct rela-
18 tionship" does not include a relationship—

19 (i) between an individual and a data
20 broker where the individual's only connec-
21 tion to the data broker is based on the in-
22 dividual's request—

23 (I) for the data broker to delete
24 the personal information of the indi-
25 vidual; or

1   (II) to opt-out of the data bro-

2   ker's collection or use of personal in-

3   formation, certain sales of such infor-

4   mation, or its databases; or

5   (ii) required under any State or Fed-

6   eral law related to the use of personal in-

7   formation.

8   (7) FOREIGN ADVERSARY COUNTRY.—The term

9 "foreign adversary country" means a country speci-

10 fied in section 4872(d)(2) of title 10, United States

11 Code.

12   (8) HASH.—The term "hash" means to input

13 data to a cryptographic, one-way, collision resistant

14 function that maps a bit string of arbitrary length

15 to a fixed-length bit string to produce a cryp-

16 tographically secure value.

17   (9) HASHED.—The term "hashed" means the

18 type of value produced by hashing data.

19   (10) HUMAN SUBJECTS RESEARCH.—The term

20 "human subjects research" means research that—

21   (A) an investigator (whether professional

22   or student) conducts on a living individual; and

23   (B) either—

24   (i) obtains information or biospeci-

25   mens through intervention or interaction

1 with the individual, and uses, studies, or

2 analyzes the information or biospecimens;

3 or

4 (ii) obtains, uses, studies, analyzes, or

5 generates personal information or identifi-

6 able biospecimens.

7 (11) PERSONAL INFORMATION.—

8 (A) IN GENERAL.—The term "personal in-

9 formation" means any information held by a

10 data broker, regardless of how the information

11 is collected, inferred, created, or obtained, that

12 is linked or reasonably linkable by the data

13 broker to a particular individual or consumer

14 device, including the following:

15 (i) Financial information, including

16 any bank account number, credit card

17 number, debit card number, or insurance

18 policy number.

19 (ii) A name, alias, home or other

20 physical address, online identifier, Internet

21 Protocol address, email address, phone

22 number, account name, State identification

23 card number, driver's license number,

24 passport number, or an identifying number

25 on a government-issued identification.

1   (iii) Geolocation information.

2   (iv) Biometric information.

3   (v) The contents of, attachments to,

4   or parties to information, including with

5   respect to email, text messages, picture

6   messages, voicemails, audio conversations,

7   or video conversations.

8   (vi) Web browsing history, including

9   any search query.

10   (vii) Genetic sequencing information.

11   (viii) A device identifier, online identi-

12   fier, persistent identifier, or digital

13   fingerprinting information.

14   (ix) Any inference drawn from any of

15   the information described in this para-

16   graph that is used to create a profile about

17   an individual that reflects such individual's

18   preferences, characteristics, psychological

19   trends, predispositions, behavior, attitudes,

20   intelligence, abilities, or aptitudes.

21   (x) Any other information determined

22   appropriate by the Commission.

23   (B) LINKED OR REASONABLY LINKABLE.—

24   For purposes of subparagraph (A), information

25   is "linked or reasonably linkable" to a par-

1 ticular individual or consumer device if the in-

2 formation can be used on its own or in com-

3 bination with other information held by or read-

4 ily accessible to a data broker to identify a par-

5 ticular individual or consumer device.

6 (12) PROCESS.—The term ''process'' means to

7 perform or direct the performance of an operation

8 on personal information, including the collection,

9 transmission, use, disclosure, analysis, prediction, or

10 modification of such personal information, whether

11 or not by automated means.

12 (13) SALT.—The term ''salt'' means to add a

13 random string of data to the input of a hash func-

14 tion.

15 (14) SERVICE PROVIDER.—The term ''service

16 provider'' means an entity that—

17 (A) collects, processes, or transfers data on

18 behalf of, and at the direction of—

19 (i) an entity that is not a data broker

20 and is not controlled by a foreign adver-

21 sary; or

22 (ii) a Federal, State, Tribal, terri-

23 torial, or local government entity; and

24 (B) receives data from or on behalf of an

25 entity described in subparagraph (A)(i) or a

1   Federal, State, Tribal, territorial, or local gov-

2   ernment entity.

3   (15) UNIFORM RESOURCE LOCATOR; URL.—The

4   term "uniform resource locator" or "URL" means a

5   short string containing an address that refers to an

6   object on the web.

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