

118TH CONGRESS
1ST SESSION

S. _____

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal information across all data brokers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself and Mr. OSSOFF) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal information across all data brokers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Data Elimination and
5 Limiting Extensive Tracking and Exchange Act” or the
6 “DELETE Act”.

7 **SEC. 2. DATA DELETION REQUIREMENTS.**

8 (a) DATA BROKER ANNUAL REGISTRATION.—

9 (1) IN GENERAL.—

1 (A) REGULATIONS.—Not later than 1 year
2 after the date of enactment of this section, the
3 Commission shall promulgate regulations to re-
4 quire any data broker to—

5 (i) not later than 18 months after the
6 date of enactment of this section, and an-
7 nually thereafter, register with the Com-
8 mission; and

9 (ii) subject to subparagraph (B), pro-
10 vide the following information with such
11 registration:

12 (I) The name and primary phys-
13 ical, email, and uniform resource loca-
14 tor (URL) addresses of the data
15 broker.

16 (II) If the data broker permits
17 an individual to opt out of the data
18 broker's collection or use of personal
19 information, certain sales of such in-
20 formation, or its databases—

21 (aa) the method for request-
22 ing an opt-out;

23 (bb) any limitations on the
24 type of data collection, uses, or

1 sales for which an individual may
2 opt-out; and

3 (cc) whether the data broker
4 permits an individual to author-
5 ize a third party to perform the
6 opt-out on the individual's behalf.

7 (III) A response to a standard-
8 ized form (as issued by the Commis-
9 sion) specifying the types of informa-
10 tion the data broker collects or ob-
11 tains and the sources from which the
12 data broker obtains data.

13 (IV) A statement as to whether
14 the data broker implements a
15 credentialing process and, if so, a de-
16 scription of that process.

17 (V) Any additional information
18 or explanation the data broker chooses
19 to provide concerning its data collec-
20 tion practices.

21 (VI) Any other information de-
22 termined appropriate by the Commis-
23 sion.

24 (B) CONSTRUCTION.—Nothing in this
25 paragraph shall be construed as requiring a

1 data broker to disclose any information that is
2 a trade secret or confidential information de-
3 scribed in section 552(b)(4) of title 5, United
4 States Code.

5 (2) PUBLIC AVAILABILITY.—

6 (A) IN GENERAL.—The Commission shall
7 make the information described in paragraph
8 (1)(A) publicly available in a downloadable and
9 machine-readable format, except in the event
10 that the Commission—

11 (i) determines that the risk of making
12 such information available is not in the in-
13 terest of public safety or welfare; and

14 (ii) provides a justification for such
15 determination.

16 (B) DISCLAIMER.—The Commission shall
17 include on the website of the Commission a dis-
18 claimer that—

19 (i) the Commission cannot confirm
20 the accuracy of the responses provided by
21 the data brokers in the registration de-
22 scribed in paragraph (1)(A); and

23 (ii) individuals may contact such data
24 brokers at their own risk.

25 (b) CENTRALIZED DATA DELETION SYSTEM.—

1 (1) ESTABLISHMENT.—

2 (A) IN GENERAL.—Not later than 1 year
3 after the date of enactment of this section, the
4 Commission shall promulgate regulations to es-
5 tablish a centralized system that—

6 (i) implements and maintains reason-
7 able security procedures and practices (in-
8 cluding administrative, physical, and tech-
9 nical safeguards) appropriate to the nature
10 of the information and the purposes for
11 which the personal information will be
12 used, to protect individuals' personal infor-
13 mation from unauthorized use, disclosure,
14 access, destruction, or modification;

15 (ii) allows an individual, through a
16 single submission, to request that every
17 data broker who is registered under sub-
18 section (a) and who maintains any per-
19 sistent identifiers (as described in subpara-
20 graph (B)(iii))—

21 (I) delete any personal informa-
22 tion related to such individual held by
23 such data broker or affiliated legal en-
24 tity of the data broker; and

1 (II) unless otherwise specified by
2 the individual, discontinue any present
3 or future collection of personal infor-
4 mation related to such individual; and
5 (iii) allows a registered data broker,
6 prior to the collection of any personal in-
7 formation that is tied to a persistent iden-
8 tifier for which a registry exists, to submit
9 a query to the centralized system to con-
10 firm that the persistent identifier is not
11 subject to a deletion request described in
12 clause (ii).

13 (B) REQUIREMENTS.—The centralized sys-
14 tem established in subparagraph (A) shall meet
15 the following requirements:

16 (i) The centralized system shall allow
17 an individual to request the deletion of all
18 personal information related to such indi-
19 vidual and the discontinuation of any col-
20 lection of such personal information related
21 to such individual through a single deletion
22 request.

23 (ii) The centralized system shall pro-
24 vide a standardized form to allow an indi-
25 vidual to make such request.

1 using an internet website operated by the
2 Commission.

3 (viii) The centralized system shall not
4 charge the individual to make such re-
5 quest.

6 (C) TRANSITION.—

7 (i) IN GENERAL.—Not later than 8
8 months after the effective date of the regu-
9 lations promulgated under subparagraph
10 (A), each data broker shall—

11 (I) not less than once every 31
12 days, access the hashed registries
13 maintained by the Commission as de-
14 scribed in subparagraph (B)(iv); and

15 (II) process any deletion request
16 associated with a match between such
17 hashed registries and the records of
18 the data broker.

19 (ii) FTC GUIDANCE.—Not later than
20 6 months after the effective date of the
21 regulations promulgated under subpara-
22 graph (A), the Commission shall publish
23 guidance on the process and standards to
24 which a data broker must adhere in car-
25 rying out clause (i).

1 (2) DELETION.—

2 (A) INFORMATION DELETION.—

3 (i) IN GENERAL.—Subject to clause
4 (ii), not later than 31 days after accessing
5 the hashed registries described in para-
6 graph (1)(B)(iv), a data broker and any
7 associated legal entity shall delete all per-
8 sonal information in its possession related
9 to the individual making the request and
10 discontinue the collection of personal infor-
11 mation related to such individual. Imme-
12 diately following the deletion, the data
13 broker shall send an affirmative represen-
14 tation to the Commission with the number
15 of records deleted pursuant to each match
16 with a value in the hashed registries.

17 (ii) EXCLUSIONS.—In carrying out
18 clause (i), a data broker may retain, where
19 required, the following information:

20 (I) Any personal information that
21 is processed or maintained solely as
22 part of human subjects research con-
23 ducted in compliance with any legal
24 requirements for the protection of
25 human subjects.

1 (II) Any personal information
2 necessary to comply with a warrant,
3 subpoena, court order, rule, or other
4 applicable law.

5 (III) Any information necessary
6 for an activity described in subsection
7 (f)(3)(B), provided that the retained
8 information is used solely for any
9 such activity.

10 (iii) USE OF INFORMATION.—Any per-
11 sonal information excluded under clause
12 (ii) may only be used for the purpose de-
13 scribed in the applicable subclause of
14 clause (ii), and may not be used for any
15 other purpose, including marketing pur-
16 poses.

17 (B) ANNUAL REPORT.—Each data broker
18 registered under subsection (a) shall submit to
19 the Commission, on an annual basis, a report
20 on the completion rate with respect to the com-
21 pletion of deletion requests under subparagraph
22 (A).

23 (C) AUDIT.—

24 (i) IN GENERAL.—Not later than 3
25 years after the date of enactment of this

1 section, and every 3 years thereafter, each
2 data broker registered under subsection (a)
3 shall undergo an independent third party
4 audit to determine compliance with this
5 subsection.

6 (ii) AUDIT REPORT.—Not later than 6
7 months after the completion of any audit
8 under clause (i), each such data broker
9 shall submit to the Commission any report
10 produced as a result of the audit, along
11 with any related materials.

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

16 (3) ANNUAL FEE.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), each data broker registered under
19 subsection (a) and who maintains any per-
20 sistent identifiers (as described in paragraph
21 (1)(B)(iii)) shall pay to the Commission, on an
22 annual basis, a subscription fee determined by
23 the Commission to access the database.

24 (B) LIMIT.—The amount of the subscrip-
25 tion fee under subparagraph (A) may not ex-

1 ceed 1 percent of the expected annual cost of
2 operating the centralized system and hashed
3 registries described in paragraph (1), as deter-
4 mined by the Commission.

5 (C) AVAILABILITY.—Any amounts col-
6 lected by the Commission pursuant to this
7 paragraph shall be available without further ap-
8 propriation to the Commission for the exclusive
9 purpose of enforcing and administering this
10 Act, including the implementation and mainte-
11 nance of such centralized system and hashed
12 registries and the promotion of public aware-
13 ness of the centralized system.

14 (c) ENFORCEMENT BY THE COMMISSION.—

15 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
16 TICES.—A violation of subsection (a) or (b) or a reg-
17 ulation promulgated under this Act shall be treated
18 as a violation of a rule defining an unfair or decep-
19 tive act or practice under section 18(a)(1)(B) of the
20 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,

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 Act.

5 (B) PRIVILEGES AND IMMUNITIES.—Any
6 person who violates subsection (a) or (b) or a
7 regulation promulgated under this Act shall be
8 subject to the penalties and entitled to the
9 privileges and immunities provided in the Fed-
10 eral Trade Commission Act (15 U.S.C. 41 et
11 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 (d) 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
20 under paragraph (1);

21 (B) a summary of any enforcement actions
22 taken pursuant to this Act; and

23 (C) recommendations for such legislation
24 and administrative action as the Commission
25 determines appropriate.

1 (e) 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 (f) DEFINITIONS.—In this section:

13 (1) COMMISSION.—The term “Commission”
14 means the Federal Trade Commission.

15 (2) CREDENTIALING PROCESS.—The term
16 “credentialing process” means the practice of taking
17 reasonable steps to confirm—

18 (A) the identity of the entity with whom
19 the data broker has a direct relationship;

20 (B) that any data disclosed to the entity
21 by such data broker will be used for the de-
22 scribed purpose of such disclosure; and

23 (C) that such data will not be used for un-
24 lawful purposes.

25 (3) DATA BROKER.—

1 (A) IN GENERAL.—The term “data
2 broker” means an entity that knowingly collects
3 or obtains the personal information of an indi-
4 vidual with whom the entity does not have a di-
5 rect relationship and then—

6 (i) uses the personal information to
7 perform a service for a third party; or

8 (ii) sells, licenses, trades, provides for
9 consideration, or is otherwise compensated
10 for disclosing personal information to a
11 third party.

12 (B) EXCLUSION.—The term “data broker”
13 does not include an entity who solely uses, sells,
14 licenses, trades, provides for consideration, or is
15 otherwise compensated for disclosing personal
16 information for one or more of the following ac-
17 tivities:

18 (i) Providing 411 directory assistance
19 or directory information services, including
20 name, address, and telephone number, on
21 behalf of or as a function of a tele-
22 communications carrier.

23 (ii) Providing an individual’s publicly
24 available information if the information is

1 being used by the recipient as it relates to
2 that individual's business or profession.

3 (iii) Providing personal information to
4 a third party at the express direction of
5 the individual for a clearly disclosed single-
6 use purpose.

7 (iv) Providing or using personal infor-
8 mation for assessing, verifying, or authen-
9 ticating an individual's identity, or for in-
10 vestigating or preventing actual or poten-
11 tial fraud.

12 (v) Gathering, preparing, collecting,
13 photographing, recording, writing, editing,
14 reporting, or publishing news or informa-
15 tion that concerns local, national, or inter-
16 national events or other matters of public
17 interest (as determined by the Commis-
18 sion) for dissemination to the public.

19 (vi) Acting as a consumer reporting
20 agency (as defined in section 603(f) of the
21 Fair Credit Reporting Act (15 U.S.C.
22 1681a(f))),

23 (C) EXCLUSION FROM SALE.—

24 (i) IN GENERAL.—For purposes of
25 this paragraph, the term “sells” does not

1 include a one-time or occasional sale of as-
2 sets of an entity as part of a transfer of
3 control of those assets that is not part of
4 the ordinary conduct of the entity.

5 (ii) NOTICE REQUIRED.—To meet the
6 exclusion criteria described in clause (i), an
7 entity must provide notice to the Commis-
8 sion, in the manner determined appro-
9 priate by the Commission, of any such one-
10 time or occasional sale of assets.

11 (4) DELETE.—The term “delete” means to re-
12 move or destroy information such that the informa-
13 tion is not maintained in human- or machine-read-
14 able form and cannot be retrieved or utilized in such
15 form in the normal course of business.

16 (5) DIRECT RELATIONSHIP.—

17 (A) IN GENERAL.—The term “direct rela-
18 tionship” means a relationship between an indi-
19 vidual and an entity where the individual—

20 (i) is a current customer;

21 (ii) has obtained a good or service
22 from the entity within the prior 18
23 months; or

1 (iii) has made an inquiry about the
2 products or services of the entity within
3 the prior 90 days.

4 (B) EXCLUSION.—The term “direct rela-
5 tionship” does not include a relationship—

6 (i) between an individual and a data
7 broker where the individual’s only connec-
8 tion to the data broker is based on the in-
9 dividual’s request—

10 (I) for the data broker to delete
11 the personal information of the indi-
12 vidual; or

13 (II) to opt-out of the data bro-
14 ker’s collection or use of personal in-
15 formation, certain sales of such infor-
16 mation, or its databases; or

17 (ii) required under any State or Fed-
18 eral law related to the use of personal in-
19 formation.

20 (6) HASH.—The term “hash” means to input
21 data to a cryptographic, one-way, collision resistant
22 function that maps a bit string of arbitrary length
23 to a fixed-length bit string to produce a cryp-
24 tographically secure value.

1 (7) HASHED.—The term “hashed” means the
2 type of value produced by hashing data.

3 (8) HUMAN SUBJECTS RESEARCH.—The term
4 “human subjects research” means research that—

5 (A) an investigator (whether professional
6 or student) conducts on a living individual; and

7 (B) either—

8 (i) obtains information or biospeci-
9 mens through intervention or interaction
10 with the individual, and uses, studies, or
11 analyzes the information or biospecimens;

12 or

13 (ii) obtains, uses, studies, analyzes, or
14 generates personal information or identifi-
15 able biospecimens.

16 (9) PERSONAL INFORMATION.—

17 (A) IN GENERAL.—The term “personal in-
18 formation” means any information held by a
19 data broker, regardless of how the information
20 is collected, inferred, created, or obtained, that
21 is linked or reasonably linkable by the data
22 broker to a particular individual or consumer
23 device, including the following information:

24 (i) Financial information, including
25 any bank account number, credit card

1 number, debit card number, or insurance
2 policy number.

3 (ii) A name, alias, home or other
4 physical address, online identifier, Internet
5 Protocol address, email address, phone
6 number, account name, State identification
7 card number, driver's license number,
8 passport number, or an identifying number
9 on a government-issued identification.

10 (iii) Geolocation information.

11 (iv) Biometric information.

12 (v) The contents of, attachments to,
13 or parties to information, including with
14 respect to email, text messages, picture
15 messages, voicemails, audio conversations,
16 or video conversations.

17 (vi) Web browsing history, including
18 any search query.

19 (vii) Genetic sequencing information.

20 (viii) A device identifier, online identi-
21 fier, persistent identifier, or digital
22 fingerprinting information.

23 (ix) Any inference drawn from any of
24 the information described in this para-
25 graph that is used to create a profile about

1 an individual that reflects such individual's
2 preferences, characteristics, psychological
3 trends, predispositions, behavior, attitudes,
4 intelligence, abilities, or aptitudes.

5 (x) Any other information determined
6 appropriate by the Commission.

7 (B) LINKED OR REASONABLY LINKABLE.—
8 For purposes of subparagraph (A), information
9 is “linked or reasonably linkable” to a par-
10 ticular individual or consumer device if the in-
11 formation can be used on its own or in com-
12 bination with other information held by or read-
13 ily accessible to a data broker to identify a par-
14 ticular individual or consumer device.

15 (10) PROCESS.—The term “process” means to
16 perform or direct the performance of an operation
17 on personal information, including the collection,
18 transmission, use, disclosure, analysis, prediction, or
19 modification of such personal information, whether
20 or not by automated means.

21 (11) SALT.—The term “salt” means to add a
22 random string of data to the input of a hash func-
23 tion.

24 (12) UNIFORM RESOURCE LOCATOR; URL.—The
25 term “uniform resource locator” or “URL” means a

- 1 short string containing an address that refers to an
- 2 object on the web.