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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R.

To prohibit data brokers from selling and transferring certain sensitive data.

IN THE HOUSE OF REPRESENTATIVES

Ms. SCANLON introduced the following bill; which was referred to the
Committee on _____

A BILL

To prohibit data brokers from selling and transferring
certain sensitive data.

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 “Health and Location
5 Data Protection Act of 2026”.

6 **SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**
7 **LATING TO HEALTH AND LOCATION DATA.**

8 (a) PROHIBITION ON SALE BY DATA BROKERS.—It
9 shall be unlawful for a data broker to sell, resell, license,

1 trade, transfer, share, or otherwise provide or make avail-
2 able any of the following forms of data, whether declared
3 or inferred, of an individual:

4 (1) Location data.

5 (2) Health data.

6 (3) Other categories of data identified by the
7 Commission that address or reveal a category of
8 data described in paragraphs (1) and (2).

9 (b) PROHIBITION ON SALE TO DATA BROKERS.—It
10 shall be unlawful for any person to sell, resell, license,
11 trade, transfer, share, or otherwise provide or make avail-
12 able to a data broker any of the following forms of data,
13 whether declared or inferred, of an individual:

14 (1) Location data.

15 (2) Health data.

16 (3) Other categories of data identified by the
17 Commission that address or reveal a category of
18 data described in paragraphs (1) and (2).

19 (c) EXCEPTIONS.—

20 (1) ACTIONS THAT ARE HIPAA-COMPLIANT.—

21 (A) IN GENERAL.—Nothing in this Act
22 shall be construed to prohibit any action taken
23 with respect to the health information of an in-
24 dividual by a data broker acting in its capacity
25 as a business associate or covered entity, that

1 is permissible under the Federal regulations
2 concerning standards for privacy of individually
3 identifiable health information promulgated
4 under section 264(e) of the Health Insurance
5 Portability and Accountability Act of 1996 (42
6 U.S.C. 1320d-2 note).

7 (B) APPLICATION OF TERMS.—In para-
8 graph (1), the terms “business associate”, “cov-
9 ered entity”, and “health information” shall
10 have the meaning given those terms in the Fed-
11 eral regulations specified in such paragraph.

12 (2) PUBLICATION OF NEWSWORTHY INFORMA-
13 TION OF LEGITIMATE PUBLIC CONCERN.—Nothing
14 in this Act shall be construed to prohibit the publi-
15 cation of newsworthy information of legitimate pub-
16 lic concern.

17 (3) DISCLOSURE PURSUANT TO VALID AUTHOR-
18 IZATION.—Nothing in this Act shall be construed to
19 prohibit a disclosure of the data of an individual for
20 which the individual provides valid authorization.
21 For purposes of this paragraph, the term “valid au-
22 thorization” has the meaning given such term in sec-
23 tion 164.508 of title 45, Code of Federal Regula-
24 tions (or a successor regulation), subject to such ad-
25 aptations as the Commission shall deem necessary to

1 apply such term to the disclosure of both location
2 data and health data.

3 (d) EFFECTIVE DATE.—The prohibition under sub-
4 section (a) shall take effect on the earlier of—

5 (1) the date the Commission issues the final
6 rule under subsection (e); or

7 (2) 180 days after the date of enactment of this
8 Act.

9 (e) RULEMAKING.—

10 (1) FINAL RULE.—Pursuant to section 553 of
11 title 5, United States Code, the Commission shall
12 promulgate regulations to carry out the provisions of
13 this Act. The Commission shall issue a final rule by
14 not later than 180 days after the date of enactment
15 of this Act.

16 (2) ADDITIONAL GUIDANCE.—Pursuant to sec-
17 tion 553 of title 5, United States Code, the Commis-
18 sion may promulgate further regulations to carry out
19 the provisions of this Act, including further guidance
20 regarding the types of data described in subsection
21 (a).

22 **SEC. 3. ENFORCEMENT.**

23 (a) ENFORCEMENT BY THE FEDERAL TRADE COM-
24 MISSION.—

1 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
2 TICES.—A violation of section 2 shall be treated as
3 a violation of a rule defining an unfair or a deceptive
4 act or practice under section 18(a)(1)(B) of the Fed-
5 eral Trade Commission Act (15 U.S.C.
6 57a(a)(1)(B)).

7 (2) POWERS OF COMMISSION.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraphs (D) and (E), the Commission
10 shall enforce section 2 in the same manner, by
11 the same means, and with the same jurisdic-
12 tion, powers, and duties as though all applicable
13 terms and provisions of the Federal Trade
14 Commission Act (15 U.S.C. 41 et seq.) were in-
15 corporated into and made a part of this Act.

16 (B) PRIVILEGES AND IMMUNITIES.—Any
17 person who violates section 2 shall be subject to
18 the penalties and entitled to the privileges and
19 immunities provided in the Federal Trade Com-
20 mission Act (15 U.S.C. 41 et seq.).

21 (C) AUTHORITY PRESERVED.—Nothing in
22 this Act shall be construed to limit the author-
23 ity of the Federal Trade Commission under any
24 other provision of law.

1 (D) NONPROFIT ORGANIZATIONS.—Not-
2 withstanding section 4 of the Federal Trade
3 Commission Act (15 U.S.C. 44) or any jurisdic-
4 tional limitation of the Commission, the Com-
5 mission shall also enforce this Act, in the same
6 manner provided in subparagraphs (A) and (B),
7 with respect to organizations not organized to
8 carry on business for their own profit or that
9 of their members.

10 (E) INDEPENDENT LITIGATION AUTHOR-
11 ITY.—In any case in which the Commission has
12 reason to believe that a person is violating or
13 has violated section 2, the Commission may
14 bring a civil action in an appropriate district
15 court of the United States to—

16 (i) enjoin any further such violation
17 by such person;

18 (ii) enforce compliance with this Act,
19 including through deletion of the relevant
20 information;

21 (iii) obtain a permanent, temporary,
22 or preliminary injunction;

23 (iv) obtain civil penalties;

24 (v) obtain damages (whether actual,
25 punitive, or otherwise), restitution,

1 disgorgement of unjust enrichment, or
2 other compensation on behalf of aggrieved
3 persons; or

4 (vi) obtain any other appropriate equi-
5 table relief.

6 (b) ENFORCEMENT BY STATES.—

7 (1) IN GENERAL.—In any case in which the at-
8 torney general of a State has reason to believe that
9 an interest of the residents of the State has been or
10 is threatened or adversely affected by the engage-
11 ment of any person subject to section 2 in a practice
12 that violates such section, the attorney general of
13 the State may, as *parens patriae*, bring a civil action
14 on behalf of the residents of the State in an appro-
15 priate district court of the United States to—

16 (A) enjoin any further such violation by
17 such person;

18 (B) enforce compliance with this Act, in-
19 cluding through deletion of the relevant infor-
20 mation;

21 (C) obtain a permanent, temporary, or pre-
22 liminary injunction;

23 (D) obtain civil penalties;

24 (E) obtain damages (whether actual, puni-
25 tive, or otherwise), restitution, disgorgement of

1 unjust enrichment, or other compensation on
2 behalf of aggrieved persons; or

3 (F) obtain any other appropriate equitable
4 relief.

5 (2) NOTICE.—Before filing an action under
6 paragraph (1), the attorney general, official, or
7 agency of the State involved shall provide to the
8 Commission a written notice of such action and a
9 copy of the complaint for such action. If the attor-
10 ney general, official, or agency determines that it is
11 not feasible to provide the notice described in this
12 paragraph before the filing of the action, the attor-
13 ney general, official, or agency shall provide written
14 notice of the action and a copy of the complaint to
15 the Commission immediately upon the filing of the
16 action.

17 (3) LIMITATION ON STATE ACTION WHILE FED-
18 ERAL ACTION IS PENDING.—If the Commission has
19 instituted a civil action for a violation of section 2,
20 no State attorney general, or official or agency of a
21 State, may bring an action under this paragraph
22 during the pendency of that action against any de-
23 fendant named in the complaint of the Commission
24 for any violation of section 2 alleged in the com-
25 plaint.

1 (4) RELATIONSHIP WITH STATE-LAW CLAIMS.—

2 If the attorney general of a State has authority to
3 bring an action under State law directed at acts or
4 practices that also violate section 2, the attorney
5 general may assert the State-law claim and a claim
6 under section 2 in the same civil action.

7 (5) INVESTIGATORY POWERS.—Nothing in this
8 subsection may be construed to prevent the attorney
9 general of a State from exercising the powers con-
10 ferred on the attorney general by the laws of the
11 State to conduct investigations, to administer oaths
12 or affirmations, or to compel the attendance of wit-
13 nesses or the production of documentary or other
14 evidence.

15 (c) PRIVATE ENFORCEMENT.—Any person whose in-
16 terest has been or is threatened or adversely affected by
17 the engagement of any person subject to section 2 in a
18 practice that violates such section may bring a civil action
19 in an appropriate district court of the United States to—

20 (1) enjoin any further such violation by such
21 person;

22 (2) enforce compliance with this Act, including
23 through deletion of the relevant information;

24 (3) obtain a permanent, temporary, or prelimi-
25 nary injunction;

1 (4) obtain damages (whether actual, punitive,
2 or otherwise), restitution, or other compensation;

3 (5) obtain reasonable attorney's fees, including
4 litigation expenses, and costs; or

5 (6) obtain any other appropriate equitable re-
6 lief.

7 (d) CIVIL PENALTIES.—In addition to any other pen-
8 alties as may be prescribed by law, a violation of this Act
9 shall carry a civil penalty not to exceed 15 percent of the
10 revenues earned by the person's ultimate parent entity
11 during the preceding 12-month period.

12 (e) EXCLUSIVE JURISDICTION.—

13 (1) DISTRICT COURTS.—For any action brought
14 under this Act, the following district courts shall
15 have exclusive jurisdiction:

16 (A) For actions brought by the Commis-
17 sion, the United States District Court for the
18 District of Columbia.

19 (B) For actions brought by a State attor-
20 ney general, the district court of the United
21 States for the judicial district in which the cap-
22 ital of the State is located.

23 (C) For private actions brought by per-
24 sons—

1 (i) the United States District Court
2 for the District of Columbia; or

3 (ii) the district court of the United
4 States for the judicial district in which the
5 violation took place or in which any de-
6 fendant resides or does business.

7 (2) COURT OF APPEALS.—The United States
8 Court of Appeals for the District of Columbia Cir-
9 cuit shall have exclusive jurisdiction of appeals from
10 all decisions under paragraph (1).

11 (f) STATUTE OF LIMITATIONS.—A proceeding for a
12 violation of this Act may be commenced not later than
13 6 years after the date upon which the plaintiff obtains ac-
14 tual knowledge of the facts giving rise to such violation.

15 (g) PREEMPTION.—The provisions of this Act pre-
16 empt only the provisions of State or local law that require
17 disclosure prohibited by this Act.

18 **SEC. 4. DEFINITIONS.**

19 In this Act:

20 (1) ARTIFICIAL INTELLIGENCE.—The term “ar-
21 tificial intelligence” has the meaning given such
22 term in section 5002 of the National Artificial Intel-
23 ligence Initiative Act of 2020 (15 U.S.C. 9401).

24 (2) ARTIFICIAL INTELLIGENCE SYSTEM.—The
25 term “artificial intelligence system” means any data

1 system, software, hardware, application, tool, or util-
2 ity that operates in whole or in part using artificial
3 intelligence.

4 (3) COMMISSION.—The term “Commission”
5 means the Federal Trade Commission.

6 (4) DATA.—

7 (A) IN GENERAL.—Not later than 180
8 days after the date of enactment of this Act,
9 the Commission shall adopt rules in accordance
10 with section 553 of title 5, United States Code,
11 to define the term “data” for the purpose of
12 implementing and enforcing this Act.

13 (B) REQUIREMENT.—The term “data”
14 shall include information that is linked, or rea-
15 sonably linkable, to—

16 (i) specific individuals; or

17 (ii) specific groups of individuals who
18 share the same place of residence or inter-
19 net protocol address.

20 (5) DATA BROKER.—

21 (A) IN GENERAL.—The term “data
22 broker” means an entity that, for valuable con-
23 sideration, sells, licenses, rents, trades, trans-
24 fers, releases, discloses, provides access to, or
25 otherwise makes available data of individuals

1 that the entity did not collect directly from such
2 individuals to another entity.

3 (B) EXCLUSION.—The term “data broker”
4 does not include an entity to the extent such
5 entity—

6 (i) is transmitting data of an indi-
7 vidual, including communications of such
8 an individual, at the request or direction of
9 such individual;

10 (ii) is providing, maintaining, or offer-
11 ing a product or service with respect to
12 which personally identifiable sensitive data,
13 or access to such data, is not the product
14 or service;

15 (iii) is reporting or publishing news or
16 information that concerns local, national,
17 or international events or other matters of
18 public interest; or

19 (iv) is reporting, publishing, or other-
20 wise making available news or information
21 that is available to the general public;

22 (I) including information from—

23 (aa) a book, magazine, tele-
24 phone book, or online directory;

25 (bb) a motion picture;

1 (cc) a television, internet, or
2 radio program;

3 (dd) the news media; or

4 (ee) an internet site that is
5 available to the general public on
6 an unrestricted basis; and

7 (II) not including an obscene vis-
8 ual depiction (as such term is used in
9 section 1460 of title 18, United States
10 Code).

11 (6) HEALTH DATA.—The term “health data”
12 means data that reveal or describe—

13 (A) the search for, attempt to obtain, in-
14 quiry regarding, or receipt of any health infor-
15 mation, services, or supplies, including through
16 prompts or other information entered into an
17 artificial intelligence system;

18 (B) any past, present, or future disability,
19 physical health condition, mental health condi-
20 tion, or health condition of an individual, in-
21 cluding, but not limited to, pregnancy and mis-
22 carriage; or

23 (C) any treatment or diagnosis of a dis-
24 ability or condition described in subparagraph

25 (B).

1 (7) LOCATION DATA.—The term “location
2 data” means data capable of determining the past or
3 present physical location of an individual or an indi-
4 vidual’s device.

5 (8) STATE.—The term “State” means each of
6 the several States, the District of Columbia, each
7 commonwealth, territory, or possession of the United
8 States, and each federally recognized Indian Tribe.

9 (9) ULTIMATE PARENT ENTITY.—The term “ul-
10 timate parent entity” has the meaning given the
11 term in section 801.1 of title 16, Code of Federal
12 Regulations (or any successor regulation).

13 **SEC. 5. FUNDING.**

14 In addition to amounts otherwise available, there is
15 appropriated to the Commission for fiscal year 2027, out
16 of any money in the Treasury not otherwise appropriated,
17 \$1,000,000,000, to remain available until September 30,
18 2035, for carrying out the work of the Commission.