

106TH CONGRESS
2D SESSION

H. R. 4059

To establish a system for businesses engaged in electronic commerce to adopt, and certify their compliance with, internationally recognized principles concerning the collection, use, and dissemination of personal information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2000

Mr. CAMPBELL (for himself, Mr. UDALL of New Mexico, Mr. GILLMOR, Mr. HALL of Texas, and Mr. HUTCHINSON) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To establish a system for businesses engaged in electronic commerce to adopt, and certify their compliance with, internationally recognized principles concerning the collection, use, and dissemination of personal information, 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 “Online Privacy and
5 Disclosure Act of 2000”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 apply:

4 (1) DATA CONTROLLER.—The term “data con-
5 troller” means a person who, by any means of inter-
6 state commerce, collects personal data, regardless of
7 whether or not such data are collected, stored, proc-
8 essed, or disseminated by that person or by an agent
9 on its behalf.

10 (2) PERSONAL DATA.—The term “personal
11 data” means any information relating to an identi-
12 fied or identifiable individual (data subject).

13 (3) DATA SUBJECT.—The term “data subject”
14 means an individual to whom personal data pertain.

15 (4) COMMISSION.—The term “Commission”
16 means the Federal Trade Commission.

17 (5) PERSON.—The term “person” has the
18 meaning provided such term in section 1 of title 1,
19 United States Code.

20 **SEC. 3. PURPOSES.**

21 The purposes of this Act are—

22 (1) to identify and establish principles con-
23 cerning fair and nondeceptive business practices for
24 the collection, use, and dissemination of personal
25 data;

1 (2) to permit businesses that have adopted and
2 implemented such principles to certify the implemen-
3 tation by publicly displaying a uniform seal; and

4 (3) to require the Commission to prohibit and
5 prevent unfair and deceptive acts and practices in
6 the use of that uniform seal.

7 **SEC. 4. PRINCIPLES FOR FAIR PERSONAL INFORMATION**
8 **PRACTICES.**

9 Data controllers who abide by the following rules
10 shall be permitted to display an official seal certifying such
11 compliance under such regulations as the Commission
12 shall prescribe:

13 (1) COLLECTION LIMITATION PRINCIPLE.—The
14 collection of any personal data through means of
15 interstate commerce should be obtained by lawful
16 and fair means and with the knowledge of the data
17 subject.

18 (2) DATA QUALITY PRINCIPLE.—Personal data
19 should be accurate, complete, and current.

20 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
21 purposes for which personal data are collected
22 should be specified and disclosed to the data subject
23 not later than the time of data collection, and any
24 subsequent use should be limited to the fulfillment
25 of those disclosed purposes, or such other purposes

1 as are not incompatible with those disclosed pur-
2 poses and as are also disclosed to the data subject
3 on each occasion of a change of purpose.

4 (4) USE LIMITATION PRINCIPLE.—Personal
5 data should not be disclosed, made available, or oth-
6 erwise used for purposes other than those specified
7 and disclosed in accordance with paragraph (3),
8 except—

9 (A) with the consent of the data subject; or

10 (B) by the authority of law.

11 (5) OPENNESS PRINCIPLE.—A data subject
12 should have readily available means of establishing
13 the existence and nature of personal data, and the
14 main purposes of their use, as well as the identity
15 and usual place of business of the data controller.

16 (6) INDIVIDUAL PARTICIPATION PRINCIPLE.—
17 An individual should have the right—

18 (A) to obtain from a data controller, or
19 otherwise, confirmation of whether or not the
20 data controller has data relating to the indi-
21 vidual;

22 (B) to have communicated to the indi-
23 vidual, data relating to the individual—

24 (i) within a reasonable time;

1 (ii) at a charge, if any, that is not ex-
 2 cessive;

3 (iii) in a reasonable manner; and

4 (iv) in a form that is readily intel-
 5 ligible to the individual;

6 (C) to be given reasons if a request made
 7 under subparagraphs (A) and (B) is denied,
 8 and to be able to challenge such denial; and

9 (D) to challenge data relating to the indi-
 10 vidual and, if the challenge is successful to have
 11 the data erased, rectified, completed, or amend-
 12 ed.

13 (7) ACCOUNTABILITY PRINCIPLE.—A data con-
 14 troller should be accountable for complying with
 15 measures which give effect to the principles stated in
 16 paragraphs (1) through (6) of this section.

17 **SEC. 5. PREVENTION OF UNFAIR AND DECEPTIVE PRAC-**
 18 **TICES IN ADOPTION AND IMPLEMENTATION**
 19 **OF PRINCIPLES.**

20 (a) REGULATIONS REQUIRED.—

21 (1) IN GENERAL.—The Commission shall pre-
 22 scribe rules for the adoption of a seal that may be
 23 publicly displayed by a data controller that—

24 (A) complies with the principles set forth
 25 in section 4; and

1 (B) desires to certify that compliance pub-
2 licly.

3 (2) DECEPTIVE USE OF SEAL PROHIBITED.—

4 Such rules shall prohibit as a deceptive act or prac-
5 tice any display of such seal, or any imitation of
6 such seal, by a data controller that is not in compli-
7 ance with such principles.

8 (b) RULEMAKING.—The Commission shall prescribe
9 the rules under subsection (a) within 270 days after the
10 date of enactment of this Act. Such rules shall be pre-
11 scribed in accordance with section 553 of title 5, United
12 States Code.

13 (c) ENFORCEMENT.—Any violation of any rule pre-
14 scribed under subsection (a) shall be treated as a violation
15 of a rule respecting unfair or deceptive acts or practices
16 under section 5 of the Federal Trade Commission Act (15
17 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act
18 (15 U.S.C. 45(a)(2)), communications common carriers
19 shall be subject to the jurisdiction of the Commission for
20 purposes of this Act.

21 **SEC. 6. ADMINISTRATION AND APPLICABILITY OF ACT.**

22 (a) IN GENERAL.—Except as otherwise provided in
23 section 7, this Act shall be enforced by the Commission
24 under the Federal Trade Commission Act (15 U.S.C. 41
25 et seq.). Consequently, no activity which is outside the ju-

1 jurisdiction of that Act shall be affected by this Act, except
2 for purposes of this Act.

3 (b) ACTIONS BY THE COMMISSION.—The Commis-
4 sion shall prevent any person from violating a rule of the
5 Commission under section 5 in the same manner, by the
6 same means, and with the same jurisdiction, powers, and
7 duties as though all applicable terms and provisions of the
8 Federal Trade Commission Act (15 U.S.C. 41 et seq.)
9 were incorporated into and made a part of this Act. Any
10 person who violates such rule shall be subject to the pen-
11 alties and entitled to the privileges and immunities pro-
12 vided in the Federal Trade Commission Act in the same
13 manner, by the same means, and with the same jurisdic-
14 tion, power, and duties as though all applicable terms and
15 provisions of the Federal Trade Commission Act were in-
16 corporated into and made a part of this Act.

17 **SEC. 7. STATE ENFORCEMENT.**

18 Nothing in this Act shall preempt any State from
19 adopting or enforcing State laws dealing with the same
20 or similar subject matter as the subject matter of this Act.

