



NEVADA RESTRICTS INTERNET COMPANIES FROM SELLING CERTAIN CONSUMER INFORMATION EFFECTIVE OCTOBER 1, 2019

The Nevada legislature amended the Notice Regarding Privacy of Information Collected on Internet from Consumers statute ("Internet Notice Statute") to prohibit an "operator" of an internet website that collects certain information from consumers in Nevada from making any sale of certain information about a consumer if so directed by the consumer, effective October 1, 2019. See Nev. S.B. 220. The bill also amended the definition of the term "operator" to exclude a financial institution or an affiliate of a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act, 15 U.S.C. §§ 6801 *et seq.*

The bill adds a new provision to the Internet Notice statute that requires an operator to establish a designated request address through which a consumer may submit a verified request directing the operator not to make any sale of any covered information the operator has collected or will collect about the consumer. An operator that receives a verified request submitted by a consumer may not make any sale of any covered information the operator has collected or will collect about that consumer.

The bill defines "sale" as the exchange of covered information for monetary consideration by the operator to a person for the person to license or sell the covered information to additional persons. The bill expressly excludes from the term "sale" the disclosure of covered information by an operator to a person (i) who processes the covered information on behalf of the operator or (ii) for purposes which are consistent with the reasonable expectations of a consumer considering the context in which the consumer provided the covered information to the operator.

The Internet Notice Statute defines "covered information" as any one or more of the following items of personally identifiable information about a consumer collected by an operator through an Internet website or online service and maintained by the operator in an accessible form: (i) a first and last name, (ii) a home or other physical address which includes the name of a street and the name of a city or town, (iii) an electronic mail address, (iv) a telephone number, (v) a social security number, (vi) an identifier that allows a

specific person to be contacted either physically or online or (vii) any other information concerning a person collected from the person through the Internet website or online service of the operator and maintained by the operator in combination with an identifier in a form that makes the information personally identifiable.

Under the Internet Notice Statute, the Attorney General may impose a civil penalty not to exceed \$5,000 for each violation.

The bill is similar but more limited than the California Consumer Privacy Act ("CCPA"), as the CCPA grants consumers a right to request a business to disclose (i) the categories and specific pieces of personal information that it collects about the consumer, (ii) the categories of sources from which that information is collected, (iii) the business purposes for collecting or selling the information and (iv) the categories of third parties with which the information is shared. The CCPA also gives consumers the right to request that a business delete any personal information about the consumer which the business has collected from the consumer in certain situations. See our prior ALERTS dated July 18, 2018 and September 19, 2019. The CCPA is effective January 1, 2020.

Companies subject to the new provisions will need to analyze the amendments to determine how the law applies to them. The full text of the Internet Notice Statute with amendments is in our firm's Marketing and Privacy Digest. Please contact us with questions or for assistance in preparing for compliance by October 1, 2019. □

✧ *Elizabeth Anstaett and Lindsay Valentine*

BUSINESS LEADERS REQUEST NATIONAL PRIVACY LAW

CEOs of 51 prominent companies, including Amazon, American Express, Bank of America, Citigroup, Fed Ex, JP Morgan Chase, MasterCard, Target, USAA and Walmart, sent a letter to congressional leaders requesting a comprehensive consumer data privacy law be enacted at the federal level. The letter stated that the companies are united in their belief that consumers should have meaningful rights over their personal information and that companies that access this information should be held consistently accountable under a comprehensive federal consumer data privacy law.

The letter recommends that Congress refer to the Framework for Consumer Privacy Legislation released by the Business

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Roundtable this summer as a framework for drafting federal privacy legislation.

The Business Roundtable Framework sets forth four goals for federal privacy laws, as follows: (i) champion consumer privacy and promote accountability, (ii) foster innovation and competitiveness, (iii) harmonize regulation and (iv) achieve global interoperability. The framework advocates risk-based privacy practices and a consistent uniform framework for the collection, use and sharing of personal data across all industry sectors to the extent possible. The framework provides that generally the FTC is the appropriate federal agency to enforce a federal consumer privacy law.

We will continue to monitor privacy laws at the state and federal level. Please contact us with any questions regarding existing or proposed privacy laws.

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LOOKING FOR A MARKETING AND PRIVACY COMPLIANCE

RESOURCE? We publish an easy-to-use reference, our **MARKETING AND PRIVACY DIGEST** that compiles the state laws governing financial privacy, fair credit reporting, telemarketing /automatic dialing and announcing devices, telephone monitoring and recording, electronic signatures and restrictions on the use of social security numbers by financial service providers. Creditors, marketers and servicers should find this resource invaluable to marketing and privacy program development and regulatory compliance. **Contact us for details.**