22101374D

1   **SENATE BILL NO. 393**
2   Offered January 12, 2022
3   Prefiled January 11, 2022
4 *A BILL to amend and reenact § 59.1-577, as it shall become effective, of the Code of Virginia, relating*
5   *to Consumer Data Protection Act; data deletion request.*
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          Patrons—Ebbin and Norment
7   ——————
8   Referred to Committee on General Laws and Technology
9   ——————
10   **Be it enacted by the General Assembly of Virginia:**
11 **1. That § 59.1-577, as it shall become effective, of the Code of Virginia is amended and reenacted**
12 **as follows:**
13   **§ 59.1-577. (Effective January 1, 2023) Personal data rights; consumers.**
14   A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by
15 submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A
16 known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding
17 processing personal data belonging to the known child. A controller shall comply with an authenticated
18 consumer request to exercise the right:
19   1. To confirm whether or not a controller is processing the consumer's personal data and to access
20 such personal data;
21   2. To correct inaccuracies in the consumer's personal data, taking into account the nature of the
22 personal data and the purposes of the processing of the consumer's personal data;
23   3. To delete personal data provided by or obtained about the consumer;
24   4. To obtain a copy of the consumer's personal data that the consumer previously provided to the
25 controller in a portable and, to the extent technically feasible, readily usable format that allows the
26 consumer to transmit the data to another controller without hindrance, where the processing is carried
27 out by automated means; and
28   5. To opt out of the processing of the personal data for purposes of (i) targeted advertising, (ii) the
29 sale of personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly
30 significant effects concerning the consumer.
31   B. Except as otherwise provided in this chapter, a controller shall comply with a request by a
32 consumer to exercise the consumer rights authorized pursuant to subsection A as follows:
33   1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of
34 receipt of the request submitted pursuant to the methods described in subsection A. The response period
35 may be extended once by 45 additional days when reasonably necessary, taking into account the
36 complexity and number of the consumer's requests, so long as the controller informs the consumer of
37 any such extension within the initial 45-day response period, together with the reason for the extension.
38   2. If a controller declines to take action regarding the consumer's request, the controller shall inform
39 the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the
40 request, of the justification for declining to take action and instructions for how to appeal the decision
41 pursuant to subsection C.
42   3. Information provided in response to a consumer request shall be provided by a controller free of
43 charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded,
44 excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the
45 administrative costs of complying with the request or decline to act on the request. The controller bears
46 the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.
47   4. If a controller is unable to authenticate the request using commercially reasonable efforts, the
48 controller shall not be required to comply with a request to initiate an action under subsection A and
49 may request that the consumer provide additional information reasonably necessary to authenticate the
50 consumer and the consumer's request.
51   *5. A controller that has obtained personal data about a consumer from a source other than the*
52 *consumer shall be deemed in compliance with a consumer's request to delete such data pursuant to*
53 *subdivision A 3 by opting the consumer out of the processing of that data for targeted advertising, sale,*
54 *or profiling pursuant to subdivision A 5.*
55   C. A controller shall establish a process for a consumer to appeal the controller's refusal to take
56 action on a request within a reasonable period of time after the consumer's receipt of the decision
57 pursuant to subdivision B 2. The appeal process shall be conspicuously available and similar to the
58 process for submitting requests to initiate action pursuant to subsection A. Within 60 days of receipt of

59 an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response
60 to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied,
61 the controller shall also provide the consumer with an online mechanism, if available, or other method
62 through which the consumer may contact the Attorney General to submit a complaint.