

HOUSE BILL NO. HB0101

Protection and privacy of online customer information.

Sponsored by: Representative(s) Yin, Brown, Clem, Hunt, Western and Zwonitzer and Senator(s) Nethercott and Rothfuss

A BILL

for

1 AN ACT relating to consumer protection; providing for the
2 protection of customer personal information for broadband
3 internet access service; defining terms; providing for
4 penalties and other enforcement; and providing for an
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 40-12-801 through 40-12-807 are
10 created to read:

11

12

ARTICLE 8

13

BROADBAND INTERNET ACCESS SERVICE CUSTOMER PRIVACY

14

15

40-12-801. Definitions.

1

2 (a) As used in this article:

3

4 (i) "Broadband internet access service" means a
5 mass-market retail service by wire or radio that provides
6 the capability to transmit data to and receive data from
7 all or substantially all internet endpoints, including any
8 capabilities that are incidental to and enable the
9 operation of the service. "Broadband internet access
10 service" does not include internet access service provided
11 by accessing the internet remotely via a telephone line;

12

13 (ii) "Customer" means an applicant for or a
14 current or former subscriber of a provider's broadband
15 internet access service;

16

17 (iii) "Customer personal information" means:

18

19 (A) Personally identifying information
20 about a customer, including the customer's name, billing
21 information, social security number, billing address and
22 demographic data;

23

1 (B) Information from a customer's use of
2 broadband internet access service, including:

3

4 (I) The customer's web browsing
5 history;

6

7 (II) The customer's application usage
8 history;

9

10 (III) The customer's precise
11 geolocation information;

12

13 (IV) The customer's financial
14 information;

15

16 (V) The customer's health information;

17

18 (VI) Information pertaining to the
19 customer's children;

20

21 (VII) The customer's device
22 identifier, including a media control address,

1 international mobile equipment identity or internet
2 protocol address;

3

4 (VIII) The content of the customer's
5 communications;

6

7 (IX) The origin and destination
8 internet protocol addresses.

9

10 (iv) "Provider" means a person who provides
11 broadband internet access service.

12

13 **40-12-802. Privacy and security of customer personal**
14 **information; prohibitions.**

15

16 (a) A provider shall not use, disclose, sell or
17 permit access to customer personal information except as
18 otherwise provided in this article, section 2703 of title
19 18 of the United States Code or as required by a duly
20 issued search warrant.

21

22 (b) A provider shall take reasonable security
23 measures to protect customer personal information from

1 unauthorized use, disclosure or access. A provider shall
2 implement reasonable security measures that take into
3 consideration the following:

4

5 (i) The nature and scope of the provider's
6 activities;

7

8 (ii) The sensitivity of the data the provider
9 collects;

10

11 (iii) The size of the provider;

12

13 (iv) The technical feasibility of any potential
14 security measure.

15

16 (c) A provider may employ any lawful security measure
17 that allows the provider to comply with the requirements of
18 this section.

19

20 **40-12-803. Privacy of customer personal information;**
21 **customer consent for disclosure.**

22

1 (a) A provider may use, disclose, sell or permit
2 access to customer personal information if the customer
3 gives the provider express, written and affirmative consent
4 to the use, disclosure, sale or access of his customer
5 personal information. A customer may revoke his consent
6 given under this subsection at any time.

7

8 (b) A provider shall not:

9

10 (i) Refuse to serve a customer who does not give
11 consent as provided in subsection (a) of this section;

12

13 (ii) Charge a customer a penalty or fee or offer
14 a customer a discount based on the customer's decision
15 regarding consent as provided in subsection (a) of this
16 section.

17

18 (c) A provider may use, disclose, sell or permit
19 access to information the provider collects pertaining to a
20 customer that is not customer personal information unless
21 the customer notifies the provider in writing that the
22 customer does not authorize the provider to use, disclose,
23 sell or permit access to that information.

1

2 **40-12-804. Privacy of customer personal information;**
3 **exceptions.**

4

5 (a) A provider may collect, retain, use, disclose,
6 sell and permit access to customer personal information
7 without customer consent:

8

9 (i) For purposes of providing broadband internet
10 access service from which the customer personal information
11 is derived or for any other services necessary to provide
12 the broadband internet access service to the customer;

13

14 (ii) To advertise or market the provider's
15 telecommunications, internet and television services to the
16 customer;

17

18 (iii) To comply with a lawful court order;

19

20 (iv) To initiate, render, bill for and collect
21 payment for broadband internet access service;

22

1 (v) To protect users of the provider's or other
2 providers' services from fraudulent, abusive or unlawful
3 use of or subscription to those services;

4

5 (vi) To provide geolocation information
6 concerning the customer for purposes of responding to a
7 customer's call for emergency services to:

8

9 (A) A public safety answering point as
10 defined in W.S. 16-9-102(a)(vii) for emergency services;

11

12 (B) A provider of emergency medical or
13 emergency dispatch services;

14

15 (C) A public safety, fire service or law
16 enforcement official;

17

18 (D) A freestanding emergency center as
19 defined in W.S. 35-2-901(a)(xxvi);

20

21 (E) An information or database management
22 services provider but only for the purpose of assisting in

1 the delivery of emergency services in response to the
2 customer's emergency.

3

4 **40-12-805. Notice; applicability.**

5

6 (a) A provider shall provide to each customer and
7 potential customer a clear, conspicuous and nondeceptive
8 notice at the point of sale and on the provider's publicly
9 accessible website of the provider's obligations and the
10 customer's rights under this article.

11

12 (b) The requirements of this article shall apply to
13 providers operating within the state of Wyoming when
14 providing broadband internet access service to customers
15 who are physically located and billed for service received
16 in the state of Wyoming.

17

18 **40-12-806. Penalties; enforcement; private action.**

19

20 (a) Any person violating the provisions of this
21 article is guilty of a misdemeanor punishable by a fine of
22 not more than one thousand dollars (\$1,000.00) for each
23 violation.

1

2 (b) The attorney general shall investigate violations
3 of this article.

4

5 (c) The attorney general or any district attorney may
6 on behalf of the state bring an action:

7

8 (i) For temporary or permanent injunctive or
9 other relief in any court of competent jurisdiction for any
10 violation of this article. The court may, upon entry of
11 final judgment, award restitution when appropriate to any
12 person suffering loss because of a violation of this
13 article if proof of the loss is submitted to the
14 satisfaction of the court;

15

16 (ii) In any court of competent jurisdiction for
17 the penalties authorized under subsection (a) of this
18 section.

19

20 (d) In addition to any other remedies, a person whose
21 rights have been violated under the provisions of this
22 article may bring a civil action to enjoin or restrain any
23 violation of this article and may in the same action seek

1 damages from the person violating this article. A
2 prevailing party in an action brought under this subsection
3 may recover all costs and expenses reasonably associated
4 with the action, including but not limited to reasonable
5 attorney fees.

6

7 **40-12-807. Effective date.**

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9 This article shall take effect July 1, 2021.

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11 **Section 2.** This act is effective July 1, 2021.

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13

(END)