

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Wyoming data privacy act.

Sponsored by: Select Committee on Blockchain, Financial  
Technology and Digital Innovation Technology

A BILL

for

1 AN ACT relating to trade and commerce; establishing  
2 requirements for the controlling and processing of personal  
3 data for Wyoming residents; providing for enforcement under  
4 the Wyoming Consumer Protection Act by the attorney general  
5 or through a private cause of action; providing  
6 definitions; specifying applicability; providing penalties;  
7 requiring rulemaking; making conforming amendments; and  
8 providing for an effective date.

9

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

11



1           **40-30-202. Definitions.**

2

3           (a) As used in this article:

4

5                   (i) "Affiliate" means a legal entity that  
6 controls, is controlled by or is under common control with  
7 another legal entity. As used in this paragraph "control"  
8 means:

9

10                   (A) Ownership of, control of or power to  
11 vote twenty-five percent (25%) or more of the outstanding  
12 shares of any class of voting security of the entity,  
13 directly or indirectly, or acting through one (1) or more  
14 other persons;

15

16                   (B) Control in any manner over the election  
17 of a majority of the directors, trustees or general  
18 partners of the entity or of natural persons exercising  
19 similar functions; or

20

21                   (C) The power to exercise, directly or  
22 indirectly, a controlling influence over the management or  
23 policies of the entity as determined by the applicable

1 prudential regulator, as defined in 12 U.S.C. sec. 5481  
2 (24), if any.

3

4 (ii) "Authenticate" means to use reasonable  
5 means to determine that a request to exercise any of the  
6 rights in W.S. 40-30-203(a) is being made by or on behalf  
7 of a consumer who is entitled to exercise the rights;

8

9 (iii) "Business associate" means as defined in  
10 45 CFR 160.103;

11

12 (iv) "Child" means a person under the age of  
13 thirteen (13) years;

14

15 (v) "Consent" means a clear, affirmative act  
16 signifying a consumer's freely given, specific, informed  
17 and unambiguous agreement, such as by a written statement,  
18 including by electronic means or through a personal digital  
19 identity, or other clear, affirmative action by which the  
20 consumer signifies agreement to the processing of personal  
21 data. None of the following constitutes consent:

22

1                   (A) Acceptance of a general or broad terms  
2 of use or similar document that contains descriptions of  
3 personal data processing along with other, unrelated  
4 information;

5

6                   (B) Hovering over, muting, pausing or  
7 closing a given piece of content;

8

9                   (C) Agreement obtained through dark  
10 patterns.

11

12                   (vi) "Consumer" means a natural person who is a  
13 Wyoming resident acting only in an individual or household  
14 context and does not include a natural person acting in a  
15 commercial or employment context, as a job applicant or as  
16 a beneficiary of someone acting in an employment context;

17

18                   (vii) "Controller" means a person who, alone or  
19 jointly with others, determines the purposes for and means  
20 of processing personal data;

21

1           (viii) "Covered entity" means a health plan,  
2 health care clearing house or health information as those  
3 terms are defined in 45 CFR 160.103;

4

5           (ix) "Dark pattern" means a user interface  
6 designed or manipulated with the substantial effect of  
7 subverting or impairing user autonomy, decision-making or  
8 choice;

9

10           (x) "Decision that produces legal or similarly  
11 significant effects concerning a consumer" means a decision  
12 that results in the provision or denial of financial or  
13 lending services, housing, insurance, education enrollment  
14 or opportunity, criminal justice, employment opportunities,  
15 health care services or access to essential goods or  
16 services;

17

18           (xi) "De-identified data" means data that cannot  
19 reasonably be used to infer information about, or otherwise  
20 be linked to, an identified or identifiable natural person  
21 or personal digital identity, or a device linked to a  
22 natural person or personal digital identity, if the  
23 controller who possesses the data:

1

2 (A) Takes reasonable measures to ensure that  
3 the data cannot be associated with a natural person or  
4 personal digital identity;

5

6 (B) Publicly commits to maintain and use the  
7 data only in a de-identified fashion and not attempt to re-  
8 identify the data; and

9

10 (C) Contractually obligates any recipients  
11 of the information to comply with the requirements of this  
12 paragraph.

13

14 (xii) "Health care facility" means any entity  
15 that is licensed, certified or otherwise authorized or  
16 permitted by law to administer medical treatment in this  
17 state;

18

19 (xiii) "Health care information" means  
20 individually identifiable information relating to the past,  
21 present or future health status of a natural person or  
22 personal digital identity;

23

1           (xiv) "Health care provider" means a person  
2 licensed, certified or registered in this state under title  
3 33 of the Wyoming statutes to practice medicine, pharmacy,  
4 chiropractic, nursing, physical therapy, podiatry,  
5 dentistry, optometry, occupational therapy or other healing  
6 arts;

7  
8           (xv) "HIPAA" means the federal Health Insurance  
9 Portability and Accountability Act of 1996, as amended, 42  
10 U.S.C. secs. 1320d to 1320d-9;

11  
12           (xvi) "Identified or identifiable natural person"  
13 means a natural person who can be readily identified,  
14 directly or indirectly, in particular by reference to an  
15 identifier such as a name, an identification number,  
16 specific geolocation data or an online identifier;

17  
18           (xvii) "Personal data" means information that is  
19 linked or reasonably linkable to an identified or  
20 identifiable natural person or personal digital identity  
21 and does not include de-identified data or publicly  
22 available information. As used in this paragraph, "publicly  
23 available information" means information that is lawfully



1 made available from federal, state, or local government  
2 records and information that a controller has a reasonable  
3 basis to believe the consumer has lawfully made available  
4 to the general public;

5

6 (xviii) "Process" or "processing" means the  
7 collection, use, sale, storage, disclosure, analysis,  
8 deletion or modification of personal data and includes the  
9 actions of a controller directing a processor to process  
10 personal data;

11

12 (xix) "Processor" means a person who processes  
13 personal data on behalf of a controller;

14

15 (xx) "Profiling" means any form of processing of  
16 personal data to evaluate, analyze or predict personal  
17 aspects concerning an identified or natural person's  
18 economic situation, health, personal preferences,  
19 interests, reliability, behavior, location or movements;

20

21 (xxi) "Protected health information" means as  
22 defined in 45 CFR 160.103;

23

1           (xxii) "Pseudonymous data" means personal data  
2 that can no longer be attributed to a specific natural  
3 person or personal digital identity without the use of  
4 additional information if the additional information is  
5 kept separately and is subject to technical and  
6 organizational measures to ensure that the personal data is  
7 not attributed to a specific natural person;

8

9           (xxiii) "Sale", "sell" or "sold" means the  
10 exchange of personal data for monetary or other valuable  
11 consideration by a controller to a third party and does not  
12 include any of the following:

13

14           (A) The disclosure of personal data to a  
15 processor who processes the personal data on behalf of a  
16 controller;

17

18           (B) The disclosure of personal data to a  
19 third party for purposes of providing a product or service  
20 requested by the consumer;

21

22           (C) The disclosure or transfer of personal  
23 data to an affiliate of the controller;

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(D) The disclosure or transfer to a third party of personal data as an asset that is part of a proposed or actual merger, acquisition, bankruptcy or other transaction in which the third party assumes control of all or part of the controller's assets;

(E) The disclosure of personal data:

(I) That a consumer directs the controller to disclose or intentionally discloses by using the controller to interact with a third party; or

(II) Intentionally made available by a consumer to the general public via a channel of mass media.

(xxiv) "Sensitive data" means:

(A) Personal data revealing racial or ethnic origin, religious beliefs, a mental or physical health condition or diagnosis, sex life or sexual orientation, citizenship or citizenship status;

1           (B) Genetic or biometric data that may be  
2 processed for the purpose of uniquely identifying a natural  
3 person; or

4

5           (C) Personal data from a known child.

6

7           (xxv) "Targeted advertising" means displaying to a  
8 consumer an advertisement that is selected based on  
9 personal data obtained or inferred over time from the  
10 consumer's activities across nonaffiliated websites,  
11 applications or online services to predict consumer  
12 preferences or interests. Targeted advertising does not  
13 include:

14

15           (A) Advertising to a consumer in response to  
16 the consumer's request for information or feedback;

17

18           (B) Advertisements based on activities  
19 within a controller's own websites or online applications;

20

21           (C) Advertisements based on the context of a  
22 consumer's current search query, visit to a website or  
23 online application; or

1

2 (D) Processing personal data solely for  
3 measuring or reporting advertising performance, reach or  
4 frequency.

5

6 (xxvi) "Third party" means a person, public  
7 authority, agency or body other than a consumer,  
8 controller, processor or affiliate of the processor or the  
9 controller;

10

11 **40-30-203. Consumer personal data rights.**

12

13 (a) Consumers may exercise the following rights by  
14 submitting a request using the methods specified by a  
15 controller in the privacy notice required under W.S. 40-30-  
16 207(a). The method specified by the controller shall take  
17 into account the ways in which consumers normally interact  
18 with the controller, the need for secure and reliable  
19 communication relating to the request and the ability of  
20 the controller to authenticate the identity of the consumer  
21 making the request. Controllers shall not require a  
22 consumer to create a new account to exercise consumer  
23 rights pursuant to this section but may require a consumer

1 to use an existing account. A consumer may submit a request  
2 at any time to a controller specifying which of the  
3 following rights the consumer wishes to exercise:

4

5 (i) The right to opt out:

6

7 (A) A consumer has the right to opt out of  
8 the processing of personal data concerning the consumer for  
9 purposes of:

10

11 (I) Targeted advertising;

12

13 (II) The sale of personal data; or

14

15 (III) Profiling in furtherance of  
16 decisions that produce legal or similarly significant  
17 effects concerning a consumer.

18

19 (B) A controller that processes personal  
20 data for purposes of targeted advertising or the sale of  
21 personal data shall provide a clear and conspicuous method  
22 to exercise the right to opt out of the processing of  
23 personal data concerning the consumer pursuant to

1 subparagraph (A) of this paragraph. The controller shall  
2 provide the opt out method clearly and conspicuously in any  
3 privacy notice required to be provided to consumers under  
4 this article, and in a clear, conspicuous and readily  
5 accessible location outside the privacy notice;

6

7 (C) Effective July 1, 2024, a controller  
8 that processes personal data for purposes of targeted  
9 advertising or the sale of personal data shall allow  
10 consumers to exercise the right to opt out of the  
11 processing of personal data concerning the consumer for  
12 purposes of targeted advertising or the sale of personal  
13 data pursuant to subdivisions (A)(I) and (A)(II) of this  
14 paragraph through a user-selected universal opt out  
15 mechanism or personal digital identity;

16

17 (D) Notwithstanding a consumer's decision to  
18 exercise the right to opt out of the processing of personal  
19 data through a universal opt out mechanism or personal  
20 digital identity pursuant to subparagraph (C) of this  
21 paragraph, a controller may enable the consumer to consent,  
22 through a web page, application or a similar method, to the  
23 processing of the consumer's personal data for purposes of

1 targeted advertising or the sale of personal data, and that  
2 consent takes precedence over any choice reflected through  
3 the universal opt out mechanism. Before obtaining a  
4 consumer's consent to process personal data for purposes of  
5 targeted advertising or the sale of personal data pursuant  
6 to this subparagraph, a controller shall provide the  
7 consumer with a clear and conspicuous notice informing the  
8 consumer about the choices available under this section,  
9 describing the categories of personal data to be processed  
10 and the purposes for which they will be processed and  
11 explaining how and where the consumer may withdraw consent.  
12 The web page, application or other means by which a  
13 controller obtains a consumer's consent to process personal  
14 data for purposes of targeted advertising or the sale of  
15 personal data shall also allow the consumer to revoke the  
16 consent as easily as it is affirmatively provided. Consent  
17 provided under this subparagraph shall expire not more than  
18 three (3) years following the date the consent is provided,  
19 and unless reaffirmed by the consumer the consumer shall be  
20 considered to have opted out.

21

22 (E) Any consumer whose personal data is  
23 transferred to a third party as described in W.S. 40-30-



1 202(a)(xxiii)(D) shall be deemed to have opted out unless  
2 consent is reobtained.

3

4 (ii) Right of access. A consumer has the right to  
5 confirm whether a controller is processing personal data  
6 concerning the consumer and to access the consumer's  
7 personal data;

8

9 (iii) Right to correction. A consumer has the  
10 right to correct inaccuracies in the consumer's personal  
11 data, taking into account the nature of the personal data  
12 and the purposes of the processing of the consumer's  
13 personal data;

14

15 (iv) Right to deletion. A consumer has the right  
16 to delete personal data concerning the consumer;

17

18 (v) Right to data portability. When exercising  
19 the right to access personal data pursuant to paragraph  
20 (ii) of this subsection, a consumer has the right to obtain  
21 the personal data in a portable and, to the extent  
22 technically feasible, readily usable format that allows the  
23 consumer to transmit the data to another entity without

1 hindrance. A consumer may exercise this right not more than  
2 two (2) times per calendar year. Nothing in this paragraph  
3 requires a controller to provide the data to the consumer  
4 in a manner that would disclose the controller's trade  
5 secrets.

6

7 (b) In responding to consumer requests:

8

9 (i) A controller shall inform a consumer of any  
10 action taken on a request under subsection (a) of this  
11 section without undue delay and not more than forty-five  
12 (45) days after receipt of the request. The controller may  
13 extend the forty-five (45) day period by forty-five (45)  
14 additional days where reasonably necessary, taking into  
15 account the complexity and number of the requests. The  
16 controller shall inform the consumer of an extension within  
17 forty-five (45) days after receipt of the request, together  
18 with the reasons for the delay;

19

20 (ii) If a controller does not take action on the  
21 request of a consumer, the controller shall inform the  
22 consumer, without undue delay and, at the latest, within  
23 forty-five (45) days after receipt of the request, of the

1 reasons for not taking action and instructions for how to  
2 appeal the decision with the controller as described in  
3 subsection (c) of this section;

4

5 (iii) Upon request, a controller shall provide to  
6 the consumer the information specified in this section free  
7 of charge; except that, for a second or subsequent request  
8 within a twelve (12) month period, the controller may  
9 charge a fee not to exceed twenty-five (\$.25) cents per  
10 standard page or a fee not to exceed the actual cost of  
11 providing a copy, printout or photograph of a record in a  
12 format other than a standard page;

13

14 (iv) A controller is not required to comply with  
15 a request to exercise any of the rights under subsection  
16 (a) of this section if the controller is unable to  
17 authenticate the request using commercially reasonable  
18 efforts, in which case the controller may request the  
19 provision of additional information reasonably necessary to  
20 authenticate the request.

21

22 \*\*\*\*\*

23 \*\*\*\*\*

24 **STAFF COMMENT**

1 This draft requires an appeals process, but does not  
2 establish any standards for that process. The Committee  
3 may wish to consider what standards should be applied.

4 \*\*\*\*\*  
5 \*\*\*\*\*  
6

7 (c) An appeals process shall be maintained and shall  
8 operate as follows:

9  
10 (i) A controller shall establish an internal  
11 process whereby consumers may appeal a refusal to take  
12 action on a request to exercise any of the rights under  
13 subsection (a) of this section within a reasonable period  
14 after the consumer's receipt of the notice sent by the  
15 controller under paragraph (b)(ii) of this section. The  
16 appeal process shall be conspicuously available and as easy  
17 to use as the process for submitting a request under this  
18 section;

19  
20 (ii) Within forty-five (45) days after receipt of  
21 an appeal, a controller shall inform the consumer of any  
22 action taken or not taken in response to the appeal, along  
23 with a written explanation of the reasons in support of the  
24 response. The controller may extend the forty-five (45) day  
25 period by sixty (60) additional days where reasonably

1 necessary, taking into account the complexity and number of  
2 requests serving as the basis for the appeal. The  
3 controller shall inform the consumer of an extension within  
4 forty-five (45) days after receipt of the appeal, together  
5 with the reasons for the delay;

6

7 (iii) The controller shall inform the consumer of  
8 the consumer's ability to contact the attorney general or  
9 file a private cause of action if the consumer has concerns  
10 about the result of the appeal.

11

12 (d) A consumer may authorize another person, acting  
13 on the consumer's behalf, to exercise any of the rights  
14 specified in subsection (a) of this section, including  
15 through a technology indicating the consumer's intent such  
16 as a web link indicating a preference or browser setting,  
17 browser extension or global device setting. A controller  
18 shall comply with a request received from a person  
19 authorized by the consumer to act on the consumer's behalf  
20 if the controller is able to authenticate, with  
21 commercially reasonable effort, the identity of the  
22 consumer and the authorized agent's authority to act on the  
23 consumer's behalf.

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(e) Beginning January 1, 2025, all consumer rights specified in subsection (a) of this section shall be applicable to a consumers' personal digital identity and any action taken or request made through a World Wide Web Consortium ("W3C") standards compliant personal digital identity shall be construed as a direct action or request of the consumer.

\*\*\*\*\*  
\*\*\*\*\*  
STAFF COMMENT  
The Committee may wish to consider if January 1, 2025 is an appropriate date for the above subsection, and whether the W3C standards are appropriate for personal digital identity.  
\*\*\*\*\*  
\*\*\*\*\*

(f) Nothing in this article shall be construed to limit any existing rights of a consumer.

**40-30-204. Applicability.**

(a) Except as specified in subsection (b) of this section, this article applies to a controller who:

1           (i) Conducts business in Wyoming or produces or  
2 delivers commercial products or services that are  
3 intentionally targeted to residents of Wyoming; and

4

5           (ii) Satisfies one (1) or both of the following  
6 thresholds:

7

8           (A) Controls or processes the personal data  
9 of ten thousand (10,000) consumers or more during a  
10 calendar year;

11

12           (B) Derives revenue or receives a discount  
13 on the price of goods or services from the sale of personal  
14 data and processes or controls the personal data of two  
15 thousand five hundred (2,500) consumers or more.

16

17           (b) Subject to subsection (d) of this section, this  
18 article does not apply to:

19

20           (i) Protected health information that is  
21 collected, stored and processed by a covered entity or its  
22 business associates;

23

1           (ii) Patient identifying information, as defined  
2 in 42 CFR 2.11, that is governed by and collected and  
3 processed pursuant to 42 CFR 2, established pursuant to 42  
4 U.S.C. sec. 290dd-2;

5

6           (iii) Identifiable private information, as  
7 defined in 45 CFR 46.102, for purposes of the federal  
8 policy for the protection of human subjects pursuant to 45  
9 CFR 46;

10

11           (iv) Identifiable private information that is  
12 collected as part of human subjects research pursuant to  
13 the ICH E6 good clinical practice guideline issued by the  
14 international council for harmonisation of technical  
15 requirements for pharmaceuticals for human use or the  
16 protection of human subjects under 21 CFR 50 and 56;

17

18           (v) Personal data used or shared in research  
19 conducted in accordance with either or both of the  
20 categories set forth in paragraphs (iii) or (iv) of this  
21 subsection;

22



1           (vi) Information and documents created by a  
2 covered entity for purposes of complying with HIPAA and its  
3 implementing regulations;

4

5           (vii) Patient safety work product, as defined in  
6 42 CFR 3.20, that is created for purposes of patient safety  
7 improvement pursuant to 42 CFR 3, established pursuant to  
8 42 U.S.C. secs. 299b-21 to 299b-26;

9

10           (viii) Information that is:

11

12           (A) De-identified in accordance with the  
13 requirements for de-identification set forth in 45 CFR 164;  
14 and

15

16           (B) Derived from any of the health care  
17 related information described in this section.

18

19           (ix) Information maintained in the same manner as  
20 information under paragraphs (i) through (viii) of this  
21 subsection by:

22

23           (A) A covered entity or business associate;

1

2 (B) A health care facility or health care  
3 provider; or

4

5 (C) A program of a qualified service  
6 organization as defined in 42 CFR 2.11;

7

8 (x) The following:

9

10 (A) Except as provided in subparagraph (B)  
11 of this paragraph, an activity involving the collection,  
12 maintenance, disclosure, sale, communication, or use of any  
13 personal data bearing on a consumer's creditworthiness,  
14 credit standing, credit capacity, character, general  
15 reputation, personal characteristics or mode of living by:

16

17 (I) A consumer reporting agency as  
18 defined in 15 U.S.C. sec. 1681a (f);

19

20 (II) A furnisher of information as set  
21 forth in 15 U.S.C. sec. 1681s-2 that provides information  
22 for use in a consumer report, as defined in 15 U.S.C. sec.  
23 1681a (d); or

1

2

(III) A user of a consumer report as set forth in 15 U.S.C. sec. 1681b.

4

5

(B) The exemption provided by this paragraph applies only to the extent that the activity is regulated by the federal Fair Credit Reporting Act, 15 U.S.C. sec. 1681 et seq., as amended, and the resulting personal data is not collected, maintained, disclosed, sold, communicated or used except as authorized by the federal Fair Credit Reporting Act, as amended.

12

13

(xi) Personal data:

14

15

(A) Collected, processed, sold, or disclosed pursuant to the federal Gramm-Leach-Bliley Act, 15 U.S.C. sec. 6801 et seq., as amended, and implementing regulations, if the collection, processing, sale or disclosure is in compliance with that law;

20

21

(B) Collected, processed, sold, or disclosed pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. sec. 2721 et seq., as amended, if the

23

1 collection, processing, sale, or disclosure is regulated by  
2 that law, including implementing rules, regulations or  
3 exemptions;

4

5 (C) Regulated by the federal Children's  
6 Online Privacy Protection Act of 1998, 15 U.S.C. secs. 6501  
7 to 6506, as amended, if collected, processed and maintained  
8 in compliance with that law; or

9

10 (D) Regulated by the federal Family  
11 Educational Rights and Privacy Act of 1974, 20 U.S.C. sec.  
12 1232g et seq., as amended, and its implementing  
13 regulations;

14

15 (xii) Data maintained for employment records  
16 purposes;

17

18 (xiii) An air carrier as defined in and regulated  
19 under 49 U.S.C. sec. 40101 et seq., as amended, and 49  
20 U.S.C. sec. 41713, as amended;

21

22 (xiv) A national securities association  
23 registered pursuant to the federal Securities Exchange Act

1 of 1934, 15 U.S.C. sec. 78o-3, as amended, or implementing  
2 regulations;

3

4 (xv) Customer data maintained by a public utility  
5 as defined in W.S. 37-1-101(a)(vi) if the data is not  
6 collected, maintained, disclosed, sold, communicated or  
7 used except as authorized by state and federal law;

8

9 (xvi) Data maintained by a state institution of  
10 higher education, the state, the judicial department of the  
11 state, or a county, city or municipality if the data is  
12 collected, maintained, disclosed, communicated and used as  
13 authorized by state and federal law for noncommercial  
14 purposes. This paragraph does not affect any other  
15 exemption available under this article;

16

17 (xvii) Information used and disclosed in  
18 compliance with 45 CFR 164.512;

19

20 (xviii) A financial institution or an affiliate  
21 of a financial institution as defined by and that is  
22 subject to the federal Gramm-Leach-Bliley Act, 15 U.S.C.

1 sec. 6801 et seq., as amended, and implementing  
2 regulations, including Regulation P, 12 CFR 1016.

3

4 (c) The obligations imposed on controllers or  
5 processors under this article shall not:

6

7 (i) Except as otherwise allowed under W.S. 40-30-  
8 210, restrict a controller's or processor's ability to  
9 comply with federal, state or local laws, rules or  
10 regulations;

11

12 \*\*\*\*\*  
13 \*\*\*\*\*  
14 STAFF COMMENT

15  
16 **For the Committee's consideration: under Colorado's privacy**  
17 **act this paragraph originally read as follows:**  
18

19 (i) Restrict a controller's or processor's ability to  
20 do any of the following

21

22 (A) Comply with federal, state or local  
23 laws, rules or regulations;

24

25 (B) Comply with a civil, criminal or  
26 regulatory inquiry, investigation, subpoena or summons by  
27 federal, state, local or other governmental authorities;

28

29 (C) Cooperate with law enforcement agencies  
30 concerning conduct or activity that the controller or  
31 processor reasonably and in good faith believes may violate  
32 federal, state or local law;

33

1 (D) Investigate, exercise, prepare for or  
2 defend actual or anticipated legal claims;

3  
4 (E) Conduct internal research to improve,  
5 repair or develop products, services or technology;

6  
7 (F) Identify and repair technical errors  
8 that impair existing or intended functionality;

9  
10 (G) Perform internal operations that are  
11 reasonably aligned with the expectations of the consumer  
12 based on the consumer's existing relationship with the  
13 controller;

14  
15 (H) Provide a product or service  
16 specifically requested by a consumer or the parent or  
17 guardian of a child, perform a contract to which the  
18 consumer is a party or take steps at the request of the  
19 consumer before entering into a contract;

20  
21 (J) Protect the vital interests of the  
22 consumer or of another individual;

23  
24 (K) Prevent, detect, protect against or  
25 respond to security incidents, identity theft, fraud,  
26 harassment or malicious, deceptive or illegal activity or  
27 to preserve the integrity or security of systems or to  
28 investigate, report, or prosecute those responsible for any  
29 actions under this subparagraph;

30  
31 (M) Process personal data for reasons of  
32 public interest in the area of public health, but solely to  
33 the extent that the processing:

34  
35 (I) Is subject to suitable and specific  
36 measures to safeguard the rights of the consumer whose  
37 personal data are processed; and

38  
39 (II) Is under the responsibility of a  
40 professional subject to confidentiality obligations under  
41 federal, state or local law.

42  
43 (N) Assist another person with any of the  
44 activities set forth in this subsection;

1 \*\*\*\*\*  
 2 \*\*\*\*\*  
 3

4 (ii) Apply where compliance by the controller or  
 5 processor with this article would violate an evidentiary  
 6 privilege under Wyoming law or prevent a controller or  
 7 processor from providing personal data concerning a  
 8 consumer to a person covered by an evidentiary privilege  
 9 under Wyoming law as part of a privileged communication;

10

11 (iii) Apply to information made available by a  
 12 third party that the controller has a reasonable basis to  
 13 believe is protected speech under applicable law.

14

15 \*\*\*\*\*  
 16 \*\*\*\*\*

17 **STAFF COMMENT**  
 18 **For the Committee's consideration, Colorado's privacy act**  
 19 **included a paragraph as follows:**

20  
21

22 (iv) Apply to the processing of personal data by  
 23 an individual in the course of a purely personal or  
 24 household activity.

25 \*\*\*\*\*  
 26 \*\*\*\*\*

27



1 (d) Personal data that is processed by a controller  
2 under an exception provided by this section:

3

4 (i) Shall not be processed for any purpose other  
5 than a purpose expressly listed in this section or as  
6 otherwise authorized by this article; and

7

8 (ii) Shall be processed solely to the extent that  
9 the processing is necessary, reasonable and proportionate  
10 to the specific purpose or purposes listed in this section  
11 or as otherwise authorized by this article. Any ambiguity  
12 shall be resolved in favor of the consumer.

13

14 (e) If a controller processes personal data pursuant  
15 to an exemption in this section, the controller bears the  
16 burden of demonstrating that the processing qualifies for  
17 the exemption and complies with the requirements in  
18 subsection (d) of this section.

19

20 **40-30-205. Responsibility according to role.**

21

22 (a) Processors shall follow the instructions of the  
23 controller and assist the controller to meet its

1 obligations under this article. Taking into account the  
2 nature of processing and the information available to the  
3 processor, the processor shall assist the controller by:

4

5 (i) Taking appropriate technical and  
6 organizational measures, insofar as this is possible, for  
7 the fulfillment of the controller's obligation to respond  
8 to consumer requests to exercise consumers' rights under  
9 W.S. 40-30-203;

10

11 (ii) Helping to meet the controller's obligations  
12 to the security of processing personal data and in relation  
13 to notification of a breach of the security of the system  
14 pursuant to W.S. 40-12-502; and

15

16 (iii) Providing information to the controller  
17 necessary to enable the controller to conduct and document  
18 any data protection assessments required by W.S. 40-30-208.  
19 The controller and processor are each responsible for only  
20 the measures allocated to them under this article.

21

22 (b) Notwithstanding the instructions of a controller,  
23 a processor shall:

1

2 (i) Ensure that each person processing personal  
3 data is subject to a duty of confidentiality with respect  
4 to the data; and

5

6 (ii) Engage a subcontractor only after providing  
7 the controller with an opportunity to object and pursuant  
8 to a written contract in accordance with subsection (d) of  
9 this section that requires the subcontractor to meet the  
10 obligations of the processor with respect to personal data.

11

12 (c) Taking into account the context of processing, the  
13 controller and the processor shall implement appropriate  
14 technical and organizational measures to ensure a level of  
15 security appropriate to the risk and establish a clear  
16 allocation of the responsibilities between them to  
17 implement the measures.

18

19 (d) Processing by a processor shall be governed by a  
20 contract between the controller and the processor that  
21 establishes:

22

1           (i) The processing instructions to which the  
2 processor is bound, including the nature and purpose of the  
3 processing;

4

5           (ii) The type of personal data subject to  
6 processing;

7

8           (iii) The duration of the processing;

9

10           (iv) The requirements imposed by this subsection  
11 and subsections (b) and (c) of this section; and

12

13           (v) The following requirements:

14

15           (A) At the choice of the controller, the  
16 processor shall delete or return all personal data to the  
17 controller as requested at the end of the provision of  
18 services, unless retention of the personal data is required  
19 by law;

20

21           (B) The processor shall make available to  
22 the controller all information necessary to demonstrate  
23 compliance with the obligations in this article and shall

1 allow for, and contribute to, reasonable audits and  
2 inspections by the controller or the controller's  
3 designated auditor. Alternatively, the processor may, with  
4 the controller's consent, arrange for a qualified and  
5 independent auditor to conduct, at least annually and at  
6 the processor's expense, an audit of the processor's  
7 policies and technical and organizational measures in  
8 support of the obligations under this article using an  
9 appropriate and accepted control standard or framework and  
10 audit procedure for the audits as applicable. The processor  
11 shall provide a report of the audit to the controller upon  
12 request.

13

14 (e) No contract shall relieve a controller or a  
15 processor from the liabilities and obligations imposed on  
16 them by virtue of its role in the processing relationship  
17 as defined by this article.

18

19 (f) Determining whether a person is acting as a  
20 controller or processor with respect to a specific  
21 processing of data is a fact-based determination that  
22 depends upon the context in which personal data is to be  
23 processed. A person who is not limited in the processing of

1 personal data pursuant to a controller's instructions, or  
2 that fails to adhere to the instructions, is a controller  
3 and not a processor with respect to a specific processing  
4 of data. A processor who continues to adhere to a  
5 controller's instructions with respect to a specific  
6 processing of personal data remains a processor. If a  
7 processor begins, alone or jointly with others, to  
8 determine the purposes and means of the processing of  
9 personal data, the person is a controller with respect to  
10 the processing.

11

12 (g) A controller or processor that discloses personal  
13 data to another controller or processor in compliance with  
14 this article does not violate this article if the recipient  
15 processes the personal data in violation of this article,  
16 and, at the time of disclosing the personal data, the  
17 disclosing controller or processor did not have actual  
18 knowledge that the recipient intended to commit a  
19 violation.

20

21 (h) A controller or processor receiving personal data  
22 from a controller or processor in compliance with this  
23 article as specified in subsection (g) of this section does

1 not violate this article if the controller or processor  
2 from which it receives the personal data fails to comply  
3 with applicable obligations under this article.

4

5 **40-30-206. Processing de-identified data.**

6

7 (a) This article does not require a controller or  
8 processor to do any of the following solely for purposes of  
9 complying with this article:

10

11 (i) Reidentify de-identified data;

12

13 (ii) Comply with an authenticated consumer  
14 request to access, correct, delete or provide personal data  
15 in a portable format pursuant to W.S. 40-30-203(a), if all  
16 of the following are true:

17

18 (A) The controller is not reasonably capable  
19 of associating the request with the personal data or it  
20 would be unreasonably burdensome for the controller to  
21 associate the request with the personal data;

22

1           (B) The controller does not use the personal  
2 data to recognize or respond to the specific consumer who  
3 is the subject of the personal data or associate the  
4 personal data with other personal data about the same  
5 specific consumer;

6

7           (C) The controller does not sell the  
8 personal data to any third party or otherwise voluntarily  
9 disclose the personal data to any third party, except as  
10 otherwise authorized by the consumer.

11

12           (iii) Maintain data in identifiable form or  
13 collect, obtain, retain or access any data or technology to  
14 enable the controller to associate an authenticated  
15 consumer request with personal data.

16

17           (b) A controller that uses de-identified data shall  
18 exercise reasonable oversight to monitor compliance with  
19 any contractual commitments to which the de-identified data  
20 is subject and shall take appropriate steps to address any  
21 breaches of contractual commitments.

22



1           (c) The rights provided in W.S. 40-30-203(a)(ii)  
2 through (a)(v) do not apply to pseudonymous data if the  
3 controller can demonstrate that the information necessary  
4 to identify the consumer is kept separately and is subject  
5 to effective technical and organizational controls that  
6 prevent the controller from accessing the information.

7

8           **40-30-207. Duties of controllers.**

9

10           (a) Duty of transparency:

11

12                   (i) A controller shall provide consumers with a  
13 reasonably accessible, clear and meaningful privacy notice  
14 that includes:

15

16                           (A) The categories of personal data  
17 collected or processed by the controller or a processor;

18

19                           (B) The purposes for which the categories of  
20 personal data is processed;

21

22                           (C) How and where consumers may exercise the  
23 rights established by W.S. 40-30-203, including the

1 controller's contact information and how a consumer may  
2 appeal a controller's action with regard to the consumer's  
3 request;

4

5 (D) The categories of personal data that the  
6 controller shares with third parties, if any;

7

8 (E) The categories of third parties, if any,  
9 with whom the controller shares personal data.

10

11 (ii) If a controller sells personal data to third  
12 parties or processes personal data for targeted  
13 advertising, the controller shall clearly and conspicuously  
14 disclose the sale or processing, as well as the manner in  
15 which a consumer may exercise the right to opt out of the  
16 sale or processing;

17

18 (iii) A controller shall not:

19

20 (A) Require a consumer to create a new  
21 account to exercise a right;

22

1           (B) Based solely on the exercise of a right  
2 and unrelated to feasibility or the value of a service,  
3 increase the cost of, or decrease the availability of, a  
4 product or service.

5  
6           (iv) Nothing in this article shall be construed  
7 to require a controller to provide a product or service  
8 that requires the personal data of a consumer that the  
9 controller does not collect or maintain or to prohibit a  
10 controller from offering a different price, rate, level,  
11 quality or selection of goods or services to a consumer,  
12 including offering goods or services for no fee, if the  
13 offer is related to a consumer's voluntary participation in  
14 a bona fide loyalty, rewards, premium features, discount or  
15 club card program.

16  
17           (b) Duty of purpose specification. A controller shall  
18 specify to a consumer the express purposes for which  
19 personal data is collected and processed.

20  
21           (c) Duty of data minimization. A controller's  
22 collection of personal data shall be adequate, relevant and

1 limited to what is reasonably necessary in relation to the  
2 specified purposes for which the data is processed.

3

4 (d) Duty to avoid secondary use. A controller shall  
5 not process personal data for purposes that are not  
6 reasonably necessary to or compatible with the specified  
7 purposes for which the personal data is processed, unless  
8 the controller first obtains the consumer's consent.

9

10 (e) Duty of care. A controller shall take reasonable  
11 measures to secure personal data during both storage and  
12 use from unauthorized acquisition of the data. Data  
13 security practices shall be appropriate to the volume,  
14 scope and nature of the personal data processed and the  
15 nature of the business.

16

17 (f) Duty to avoid unlawful discrimination. A  
18 controller shall not process personal data in violation of  
19 state or federal laws that prohibit unlawful discrimination  
20 against consumers.

21

22 (g) Duty regarding sensitive data. A controller shall  
23 not process a consumer's sensitive data without first

1 obtaining the consumer's consent or, in the case of the  
2 processing of personal data concerning a known child,  
3 without first obtaining consent from the child's parent or  
4 legal guardian.

5

6 **40-30-208. Data protection assessments; attorney**  
7 **general access and evaluation; definition.**

8

9 (a) A controller shall not conduct processing that  
10 presents a heightened risk of harm to a consumer without  
11 conducting and documenting a data protection assessment of  
12 each of its processing activities that involves personal  
13 data acquired on or after the effective date of this  
14 section that presents a heightened risk of harm to a  
15 consumer.

16

17 (b) For purposes of this section, "processing that  
18 presents a heightened risk of harm to a consumer" includes  
19 all of the following:

20

21 (i) Processing personal data for purposes of  
22 targeted advertising or for profiling if the profiling  
23 presents a reasonably foreseeable risk of:

1

2

3

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23

(A) Unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) Financial or physical injury to consumers;

(C) A physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers if the intrusion would be offensive to a reasonable person; or

(D) Other substantial injury to consumers.

(ii) Selling personal data;

(iii) Processing sensitive data.

(c) Data protection assessments shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders and the public against the potential risks to the rights of the consumer associated with the processing,

1 as mitigated by safeguards that the controller can employ  
2 to reduce the risks. The controller shall factor into this  
3 assessment the use of de-identified data and the reasonable  
4 expectations of consumers, as well as the context of the  
5 processing and the relationship between the controller and  
6 the consumer whose personal data will be processed.

7

8 (d) A controller shall make the data protection  
9 assessment available to the attorney general upon request.  
10 The attorney general may evaluate the data protection  
11 assessment for compliance with the duties contained in W.S.  
12 40-30-207 and with other laws, including subsection (a) of  
13 this section. Data protection assessments are confidential  
14 and exempt from public inspection and copying under the  
15 Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205.  
16 The disclosure of a data protection assessment pursuant to  
17 a request from the attorney general under this subsection  
18 does not constitute a waiver of any attorney-client  
19 privilege or work-product protection that might otherwise  
20 exist with respect to the assessment and any information  
21 contained in the assessment.

22

1 (e) A single data protection assessment may address a  
2 comparable set of processing operations that include  
3 similar activities.

4

5 (f) Data protection assessment requirements apply to  
6 processing activities created or generated after July 1,  
7 2023, and are not retroactive.

8

9 **40-30-209. Enforcement;**

10

11 A violation of this article is a deceptive trade practice  
12 under W.S. 40-12-105.

13

14 \*\*\*\*\*  
15 \*\*\*\*\*

16 **STAFF COMMENT**

17 This draft places enforcement of the act under the  
18 provisions of the Wyoming Consumer Protection Act. Some of  
19 these provisions are amended further in this draft. Should  
20 the Committee wish to provide alternative penalties or  
21 requirements it may be better to make specific provisions  
22 for that in the new language of this draft and not rely on  
23 the Wyoming Consumer Protection Act. For the Committee's  
24 consideration and reference the relevant portions of that  
25 act are included below:

26

27 **40-12-101. Short title.**

28

29 This act may be cited as the "Wyoming Consumer Protection  
30 Act."

31

32 **40-12-102. Definitions.**



1  
2  
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43

(a) As used in this act:

(i) "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association or any other legal entity;

(ii) "Consumer transactions" means the advertising, offering for sale, sale or distribution of any merchandise to an individual for purposes that are primarily personal, family or household;

(iii) "Documentary material" means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, other tangible document or recording, reproductions of information stored magnetically, file layout, code conversion tables or computer programs to convert file to readable printout, wherever situated;

(iv) "Examination" of documentary material includes the inspection, study or copying of any such material, and the taking of testimony under oath or acknowledgement with respect to any such documentary material or copy thereof;

(v) "Advertisement" includes the attempt by publication, dissemination, solicitation or circulation, whether oral, visual, written or otherwise, and whether in person, by telephone or by any other means to induce directly or indirectly any person to enter into any obligation or to acquire any title or interest in any merchandise;

(vi) "Merchandise" includes any service or any property, tangible or intangible, real, personal or mixed, or any other object, ware, good, commodity, or article of value wherever situated;

(vii) "Enforcing authority" means the attorney general of Wyoming;

1 (viii) "Cure" as applied to an unlawful  
2 deceptive trade practice as defined in W.S. 40-12-105 means  
3 either:

4  
5 (A) To offer in writing to adjust or modify  
6 the consumer transaction to which the unlawful deceptive  
7 trade practice relates to conform to the reasonable  
8 expectations of the consumer generated by such unlawful  
9 deceptive trade practice and to perform such offer if  
10 accepted by the consumer; or

11  
12 (B) To offer in writing to rescind such  
13 consumer transaction and to perform such offer if accepted  
14 by the consumer.

15  
16 (ix) "Uncured unlawful deceptive trade practice"  
17 means an unlawful deceptive trade practice as defined in  
18 W.S. 40-12-105:

19  
20 (A) With respect to which a consumer who  
21 has been damaged by the unlawful deceptive trade practice  
22 has given notice to the alleged violator pursuant to W.S.  
23 40-12-109; and

24  
25 (B) Either:

26  
27 (I) No offer to cure has been made to  
28 such consumer within fifteen (15) days after such notice;  
29 or

30  
31 (II) The unlawful deceptive trade  
32 practice has not been cured as to such consumer within a  
33 reasonable time after his acceptance of the offer to cure.

34  
35 (x) "This act" means W.S. 40-12-101 through 40-12-  
36 114.

37  
38 **40-12-105. Unlawful practices.**

39  
40 (a) A person engages in a deceptive trade practice  
41 unlawful under this act when, in the course of his business  
42 and in connection with a consumer transaction, he  
43 knowingly:

44  
45 **40-12-106. Restraining unlawful practices.**

1  
2 Whenever the enforcing authority has reasonable cause to  
3 believe that any person has engaged in, is engaging in, or  
4 is about to engage in any practice which is unlawful under  
5 W.S. 40-12-104 or 40-12-105, and that proceedings would be  
6 in the public interest, he may bring an action in the name  
7 of this state against such person to restrain by temporary  
8 restraining order or preliminary or permanent injunction  
9 the use of such practice. The action may be brought in the  
10 district court of the county in which the person resides or  
11 has his principal place of business or in the district  
12 court of Laramie county, Wyoming. The district court may  
13 issue temporary restraining orders, including ex parte  
14 temporary restraining orders, or preliminary or permanent  
15 injunctions, in accordance with the principles of equity,  
16 to restrain and prevent violations of this act. The court  
17 may make such additional orders or judgments as are  
18 necessary to compensate identifiable persons for actual  
19 damages or restoration of money or property, real or  
20 personal, which may have been acquired by means or any act  
21 or practice restrained.

22  
23 **40-12-107. Assurances of voluntary compliance.**

24  
25 The enforcing authority may accept written assurance of  
26 voluntary compliance with respect to any practice believed  
27 to be violative of W.S. 40-12-105 from any person who is  
28 engaged or is about to engage in such practice. Such  
29 assurance is not considered an admission of violation for  
30 any purpose. Proof of failure to comply with the assurance  
31 of voluntary compliance is prima facie evidence of a  
32 violation of this act. Matters closed by virtue of the  
33 acceptance of an assurance of voluntary compliance may at  
34 any time be reopened by the enforcing authority for further  
35 proceedings in the public interest, pursuant to W.S. 40-12-  
36 106.

37  
38 **40-12-108. Private remedies.**

39  
40 (a) A person relying upon an uncured unlawful  
41 deceptive trade practice may bring an action under this act  
42 for the damages he has actually suffered as a consumer as a  
43 result of such unlawful deceptive trade practice.  
44

1 (b) Any person who is entitled to bring an action  
2 under subsection (a) of this section on his own behalf  
3 against an alleged violator of this act for damages for an  
4 unlawful deceptive trade practice may bring a class action  
5 against such person on behalf of any class of persons of  
6 which he is a member and which has been damaged by such  
7 unlawful deceptive trade practice, subject to and pursuant  
8 to the Wyoming Rules of Civil Procedure governing class  
9 actions, except as herein expressly provided. If the court  
10 determines that actual damages have been suffered by reason  
11 of the unlawful deceptive trade practice, the court shall  
12 award reasonable attorney's fees to the plaintiffs in a  
13 class action under this subsection, provided that such fees  
14 shall be determined by the amount of time reasonably  
15 expended by the attorney for the plaintiffs and not by the  
16 amount of the judgment. Any monies or property recovered in  
17 a class action under this subsection which cannot, with due  
18 diligence, be restored to consumers within one (1) year  
19 after judgment becomes final shall be returned to the party  
20 depositing the same.

21

22 **40-12-109. Limitation of actions.**

23

24 No action may be brought under this act, except under W.S.  
25 40-12-106, unless the consumer bringing the action gives  
26 within the following time limits notice in writing to the  
27 alleged violator of the act, (a) within one (1) year after  
28 the initial discovery of the unlawful deceptive trade  
29 practice, (b) within two (2) years following such consumer  
30 transaction, whichever occurs first, and unless the  
31 unlawful deceptive trade practice becomes an uncured  
32 unlawful deceptive trade practice as defined in this act.  
33 The notice required under this section shall state fully  
34 the nature of the alleged unlawful deceptive trade practice  
35 and the actual damage suffered therefrom. No action may be  
36 brought under this act, except under W.S. 40-12-106, unless  
37 said action is initiated within one (1) year after the  
38 furnishing of notice as required under this section.

39

40 **40-12-110. Exemptions.**

41

42 (a) Nothing in this act shall apply to:

43

1 (i) Acts or practices required or permitted by  
2 state or federal law, rule or regulation or judicial or  
3 administrative decision;

4  
5 (ii) Acts or practices by the publisher, owner,  
6 agent or employee of a newspaper, periodical, radio or  
7 television station or any other person without knowledge of  
8 the deceptive character of the advertisement in the  
9 publication or dissemination of an advertisement supplied  
10 by another.

11  
12 **40-12-111. Violations involving older persons or**  
13 **persons with disabilities; civil penalty.**

14  
15 (a) As used in this section:

16  
17 (i) "Person with disabilities" means any person  
18 who has a mental or educational impairment which  
19 substantially limits one (1) or more major life activities;

20  
21 (ii) "Major life activities" means functions  
22 associated with the normal activities of independent daily  
23 living such as caring for one's self, performing manual  
24 tasks, walking, seeing, hearing, speaking, breathing,  
25 learning and working;

26  
27 (iii) "Mental or educational impairment" means:

28  
29 (A) Any mental or psychological disorder or  
30 specific learning disability;

31  
32 (B) Any educational deficiency which  
33 substantially affects a person's ability to read and  
34 comprehend the terms of any contractual agreement entered  
35 into.

36  
37 (iv) "Older person" means a person who is over  
38 sixty (60) years of age.

39  
40 (b) Any person who willfully uses, or has willfully  
41 used, a method, act or practice in violation of this act  
42 which victimizes or attempts to victimize an older person  
43 or a person with disabilities, and commits such violation  
44 when the person knew or should have known that the conduct  
45 was unfair or deceptive, shall make restitution or

1 reimbursement to the older person or person with  
2 disabilities including reasonable attorney fees and costs,  
3 and, in addition, is liable for a civil penalty of up to  
4 fifteen thousand dollars (\$15,000.00) for each violation  
5 recoverable by the office of the attorney general.  
6

7 **40-12-112. Investigative powers of enforcing**  
8 **authority.**  
9

10 (a) If, by inquiry by the enforcing authority or as a  
11 result of complaints, the enforcing authority has probable  
12 cause to believe that a person has engaged in, or is  
13 engaging in, an act or practice that violates this act,  
14 investigators designated by the Wyoming attorney general  
15 may administer oaths and affirmations, subpoena witnesses  
16 or matter, and collect evidence. Within five (5) days,  
17 excluding weekends and legal holidays, after the service of  
18 a subpoena or at any time before the return date specified  
19 therein, whichever is longer, the party served may file in  
20 the district court in the county in which the party resides  
21 or in which the party transacts business, or in the  
22 district court for the first judicial district of Wyoming,  
23 and serve upon the enforcing authority a petition for an  
24 order modifying or setting aside the subpoena. The  
25 petitioner may raise any objection or privilege which would  
26 be available under this act or upon service of a subpoena  
27 in a civil action. The subpoena shall inform the party  
28 served of the party's rights under this subsection.  
29

30 (b) If matter that the enforcing authority seeks to  
31 obtain by subpoena is located outside the state, the person  
32 subpoenaed may make it available to the enforcing authority  
33 to examine the matter at the place where it is located.  
34 The enforcing authority may designate representatives,  
35 including officials of the state in which the matter is  
36 located, to inspect the matter on its behalf, and the  
37 enforcing authority may respond to similar requests from  
38 officials of other states.  
39

40 (c) Upon failure of a person without lawful excuse to  
41 obey a subpoena and upon reasonable notice to all persons  
42 affected, the enforcing authority may apply to the district  
43 court for an order compelling compliance.  
44

1 (d) The enforcing authority may request that an  
2 individual who refuses to comply with a subpoena on the  
3 ground that testimony or matter may incriminate the  
4 individual, be ordered by the court to provide the  
5 testimony or matter. Except in a prosecution for perjury,  
6 an individual who complies with a court order to provide  
7 testimony or matter after asserting a privilege against  
8 self-incrimination to which the individual is entitled by  
9 law shall not have the testimony or matter so provided, or  
10 evidence derived therefrom, received against the individual  
11 in any criminal investigation or proceeding.

12  
13 (e) Any person upon whom a subpoena is served  
14 pursuant to this section shall comply with the terms  
15 thereof unless otherwise provided by order of the court.  
16 Any person who fails to appear with the intent to avoid,  
17 evade or prevent compliance in whole or in part with any  
18 investigation under this act or who removes from any place,  
19 conceals, withholds, mutilates, alters or destroys, or by  
20 any other means falsifies any documentary material in the  
21 possession, custody or control of any person subject to the  
22 subpoena, or knowingly conceals any relevant information  
23 with the intent to avoid, evade or prevent compliance is  
24 liable for a civil penalty of not more than five thousand  
25 dollars (\$5,000.00), reasonable attorney's fees and costs.

26  
27 (f) Whenever criminal or civil intelligence,  
28 investigative information or any other information held by  
29 any state or federal agency is available to the enforcing  
30 authority on a confidential or a similarly restricted  
31 basis, the enforcing authority, in the course of the  
32 investigation of any violation of this act, may obtain and  
33 use the information. Any intelligence or investigative  
34 information that is confidential or exempt under W.S. 16-4-  
35 201 through 16-4-205 retains its status as confidential or  
36 exempt.

37  
38 **40-12-113. Civil penalties.**

39  
40 (a) The enforcing authority, upon petition to the  
41 court, may recover, on behalf of the state, a civil penalty  
42 of not more than five thousand dollars (\$5,000.00) from any  
43 person who violates the terms of a permanent injunction  
44 issued under W.S. 40-12-106.

45

1 (b) For purposes of this section, the court issuing  
2 an injunction shall retain jurisdiction, and the cause  
3 shall be continued.

4  
5 (c) Except as provided in W.S. 40-12-111, any person  
6 or agent or employee of the person, who willfully uses, or  
7 has willfully used, a method or act, in violation of this  
8 act, is liable for a civil penalty of not more than ten  
9 thousand dollars (\$10,000.00) for each violation. Willful  
10 violations occur when the person knew or should have known  
11 that the person's conduct was unfair or deceptive. This  
12 civil penalty may be recovered in any action brought under  
13 this act by the enforcing authority or the enforcing  
14 authority may terminate any investigation or action upon  
15 agreement by the person to pay a stipulated civil penalty.  
16 The enforcing authority or the court may waive any civil  
17 penalty if the person has previously made full restitution  
18 or reimbursement or has paid actual damages to the  
19 consumers who have been injured by the unlawful act or  
20 practice. If civil penalties are assessed in any  
21 litigation, the enforcing authority is entitled to  
22 reasonable attorney's fees and costs.

23  
24 **40-12-114. Effect on other remedies.**

25  
26 This act shall not prohibit actions under other statutory  
27 or common-law provisions against conduct or practices  
28 similar to those declared to be unlawful by W.S. 40-12-105.  
29 However, the remedies provided in this act are the  
30 exclusive remedies for actions brought pursuant to this  
31 act.

32 \*\*\*\*\*  
33 \*\*\*\*\*  
34

35 **40-30-210. Preemption; local governments.**

36  
37 This article supersedes and preempts ordinances,  
38 resolutions, regulations or the equivalent adopted by any



1 municipality, county or city regarding the processing of  
2 personal data by controllers or processors.

3

4 **Section 2.** W.S. 16-4-203(d) by creating a new  
5 paragraph (xxi), 40-12-102(a)(ii) and 40-12-105(a) by  
6 creating a new paragraph (xviii) are amended to read:

7

8 **16-4-203. Right of inspection; grounds for denial;**  
9 **access of news media; order permitting or restricting**  
10 **disclosure; exceptions.**

11

12 (d) The custodian shall deny the right of inspection  
13 of the following records, unless otherwise provided by law:

14

15 (xxi) Data protection assessments as provided in  
16 W.S. 40-30-208.

17

18 **40-12-102. Definitions.**

19

20 (a) As used in this act:

21

22 (ii) "Consumer transactions" means:

23

1                   (A) The advertising, offering for sale, sale  
2 or distribution of any merchandise to an individual for  
3 purposes that are primarily personal, family or household;  
4 and

5  
6                   (B) For the purposes of W.S. 40-12-  
7 105(a)(xviii), the controlling or processing of personal  
8 data as applied in the Wyoming Data Privacy Act.

9  
10           **40-12-105. Unlawful practices.**

11  
12           (a) A person engages in a deceptive trade practice  
13 unlawful under this act when, in the course of his business  
14 and in connection with a consumer transaction, he  
15 knowingly:

16  
17                   (xviii) Violates a provision of the "Wyoming Data  
18 Privacy Act," W.S. 40-30-201 through 40-30-212.

19  
20           **Section 3.** The attorney general shall promulgate any  
21 rules necessary to implement this act.

22  
23           **Section 4.** This act is effective July 1, 2022.

1

2

(END)