

1 AN ACT relating to protecting the privacy of online customer information.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 365.720 TO 365.730 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) As used in this section, unless the context otherwise indicates:*

6 *(a) "Broadband Internet access service" means a mass-market retail service by*
7 *wire or radio that provides the capability to transmit data to and receive*
8 *data from all or substantially all Internet endpoints, including any*
9 *capabilities that are incidental to and enable the operation of the service,*
10 *excluding dial-up Internet access service;*

11 *(b) "Customer" means an applicant for or a current or former subscriber of*
12 *broadband Internet access service;*

13 *(c) "Customer personal information" means:*

14 *1. Personally identifying information about a customer, including but*
15 *not limited to the customer's name, billing information, Social*
16 *Security number, billing address, and demographic data; and*

17 *2. Information from a customer's use of broadband Internet access*
18 *service, including but not limited to:*

19 *a. The customer's Web browsing history;*

20 *b. The customer's application usage history;*

21 *c. The customer's precise geolocation information;*

22 *d. The customer's financial information;*

23 *e. The customer's health information;*

24 *f. Information pertaining to the customer's children;*

25 *g. The customer's device identifier, such as a media access control*
26 *address, international mobile equipment identity, or Internet*
27 *protocol address;*

- 1 *h. The content of the customer's communications; and*
- 2 *i. The origin and destination Internet protocol addresses; and*
- 3 *(d) "Provider" means a person who provides broadband Internet access*
- 4 *service.*
- 5 *(2) A provider may not use, disclose, sell, or permit access to customer personal*
- 6 *information, except as provided in subsections (3) and (4) of this section.*
- 7 *(3) (a) A provider may use, disclose, sell, or permit access to a customer's customer*
- 8 *personal information if the customer gives the provider express, affirmative*
- 9 *consent to such use, disclosure, sale, or access. A customer may revoke the*
- 10 *customer's consent under this paragraph at any time.*
- 11 *(b) A provider may not:*
- 12 *1. Refuse to serve a customer who does not provide consent under*
- 13 *paragraph (a) of this subsection; or*
- 14 *2. Charge a customer a penalty or offer a customer a discount based on*
- 15 *the customer's decision to provide or not provide consent under*
- 16 *paragraph (a) of this subsection.*
- 17 *(c) A provider may use, disclose, sell, or permit access to information the*
- 18 *provider collects pertaining to a customer that is not customer personal*
- 19 *information, except upon written notice from the customer notifying the*
- 20 *provider that the customer does not permit the provider to use, disclose, sell,*
- 21 *or permit access to that information.*
- 22 *(4) Notwithstanding the provisions of subsections (2) and (3) of this section, a*
- 23 *provider may collect, retain, use, disclose, sell, and permit access to customer*
- 24 *personal information without customer approval:*
- 25 *(a) For the purpose of providing the service from which such information is*
- 26 *derived or for the services necessary to the provision of such service;*
- 27 *(b) To advertise or market the provider's communications-related services to*

1 the customer;

2 (c) To comply with a lawful court order;

3 (d) To initiate, render, bill for, and collect payment for broadband Internet
4 access service;

5 (e) To protect users of the provider's or other providers' services from
6 fraudulent, abusive, or unlawful use of or subscription to such services; and

7 (f) To provide geolocation information concerning the customer to:

8 1. For the purpose of responding to a customer's call for emergency
9 services, a public safety answering point; a provider of emergency
10 medical or emergency dispatch services; a public safety, fire service, or
11 law enforcement official; or a hospital emergency or trauma care
12 facility;

13 2. The customer's legal guardian or a member of the customer's
14 immediate family in an emergency situation that involves the risk of
15 death or serious physical harm; or

16 3. A provider of information or database management services solely for
17 the purpose of assisting in the delivery of emergency services in
18 response to an emergency.

19 (5) A provider shall take reasonable measures to protect customer personal
20 information from unauthorized use, disclosure, or access.

21 (a) In implementing security measures required by this subsection, a provider
22 shall take into account each of the following factors:

23 1. The nature and scope of the provider's activities;

24 2. The sensitivity of the data the provider collects;

25 3. The size of the provider; and

26 4. The technical feasibility of the security measures.

27 (b) A provider may employ any lawful measure that allows the provider to

1 comply with the requirements of this subsection.

2 (6) A provider shall provide to each of the provider's customers a clear, conspicuous,
3 and nondeceptive notice at the point of sale and on the provider's publicly
4 accessible Web site of the provider's obligations and a customer's rights under
5 this section.

6 (7) The requirements of this section apply to providers operating within the state
7 when providing broadband Internet access service to customers that are
8 physically located and billed for service received in the state.