21.0816.02000

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1330

Introduced by

Representatives Kading, Kasper, M. Ruby, Toman

1   A BILL for an Act to create and enact a new chapter to title 51 of the North Dakota Century

2   Code, relating to prohibiting covered entities from selling users' protected data without consent;

3   and to provide a penalty.

4   **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5   **SECTION 1.** A new chapter to title 51 of the North Dakota Century Code is created and

6   enacted as follows:

7   **Definitions.**

8   1.   "Covered entity" means a partnership, limited liability company, corporation, or other

9   legal entity, including a social media company, that collects and sells a user's

10   protected data and does business in the state.

11   2.   "Protected data" includes a user's location; screen name; website address; interests;

12   hometown; professional history; friends or followers; shopping habits; test scores;

13   health conditions, insurance, or interests; internet browsing history; purchases or

14   purchase history; the number of friends or followers of the user; socioeconomic status;

15   religious affiliation; alcohol, tobacco, or drug usage; gambling habits; banking

16   relationships; residence details; children's information or household information; credit;

17   banking and insurance policies; media usage; and relationship status.

18   3.   "User" is an individual who provides protected data to a covered entity.

19   **Prohibition against sale of protected data except with consent.**

20   A covered entity may not sell a user's protected data to another person unless the user

21 opts-in to allow the sale. To opt-in, the covered entity shall provide the user with the opportunity

22 to affirmatively click or select approval of the sale. The user must be given the opportunity to

23 opt-in to the sale of each type of protected data by individual selection. Protected data collected

24 and sold by the covered entity must be described clearly in plain language to the user.

1   **<u>Violation - Penalties.</u>**

2   <u>1.</u>   <u>A covered entity that violates this chapter is civilly liable to the user for a minimum of</u>

3   <u>ten thousand dollars, and the court shall order the covered entity to pay the user's</u>

4   <u>reasonable attorney's fees. If the covered entity knowingly violated this chapter, the</u>

5   <u>covered entity is civilly liable to the user for a minimum of one hundred thousand</u>

6   <u>dollars, the court shall order the covered entity to pay the user's reasonable attorney's</u>

7   <u>fees, and the court may award punitive damages.</u>

8   <u>2.</u>   <u>A class action lawsuit may be filed for a violation of this chapter.</u>