

AMENDMENT TO
RULES COMMITTEE PRINT 118-36
OFFERED BY MR. FALLON OF TEXAS

At the end of title J of title V, add the following:

1 **SEC. 5 ____.** **PROTECTING MILITARY SERVICEMEMBERS'**

2 **DATA.**

3 (a) **UNFAIR AND DECEPTIVE ACTS AND PRACTICES**
4 **RELATING TO MILITARY SERVICEMEMBER LISTS.—**

5 (1) **IN GENERAL.—**It shall be unlawful for a
6 data broker to sell, resell, license, trade, or otherwise
7 provide or make available for consideration a mili-
8 tary servicemember list to any covered nation.

9 (2) **EFFECTIVE DATE.—**The prohibition under
10 paragraph (1) shall take effect on the earlier of—

11 (A) the date the Commission issues the
12 final rule under subsection (b)(1)(C); or

13 (B) 1 year after the date of enactment of
14 this Act.

15 (b) **ENFORCEMENT.—**

16 (1) **ENFORCEMENT BY THE FEDERAL TRADE**
17 **COMMISSION.—**

18 (A) **UNFAIR OR DECEPTIVE ACTS OR PRAC-**
19 **TICES.—**A violation of subsection (a) shall be

1 treated as a violation of a rule defining an un-
2 fair or a deceptive act or practice under section
3 18(a)(1)(B) of the Federal Trade Commission
4 Act (15 U.S.C. 57a(a)(1)(B)).

5 (B) POWERS OF COMMISSION.—

6 (i) IN GENERAL.—Except as provided
7 in clauses (iv) and (v), the Commission
8 shall enforce subsection (a) in the same
9 manner, by the same means, and with the
10 same jurisdiction, powers, and duties as
11 though all applicable terms and provisions
12 of the Federal Trade Commission Act (15
13 U.S.C. 41 et seq.) were incorporated into
14 and made a part of this section.

15 (ii) PRIVILEGES AND IMMUNITIES.—
16 Any person who violates subsection (a)
17 shall be subject to the penalties and enti-
18 tled to the privileges and immunities pro-
19 vided in the Federal Trade Commission
20 Act (15 U.S.C. 41 et seq.).

21 (iii) AUTHORITY PRESERVED.—Noth-
22 ing in this section shall be construed to
23 limit the authority of the Federal Trade
24 Commission under any other provision of
25 law.

1 (iv) NONPROFIT ORGANIZATIONS.—
2 Notwithstanding section 4 of the Federal
3 Trade Commission Act (15 U.S.C. 44) or
4 any jurisdictional limitation of the Com-
5 mission, the Commission shall also enforce
6 this section, in the same manner provided
7 in clauses (i) and (ii), with respect to orga-
8 nizations not organized to carry on busi-
9 ness for their own profit or that of their
10 members.

11 (v) INDEPENDENT LITIGATION AU-
12 THORITY.—In any case in which the Com-
13 mission has reason to believe that a data
14 broker is violating or has violated sub-
15 section (a), the Commission may bring a
16 civil action in an appropriate district court
17 of the United States—

18 (I) to enjoin further violation of
19 such subsection by such person;

20 (II) to compel compliance with
21 such subsection; and

22 (III) to obtain damages, restituti-
23 on, or other compensation on behalf
24 of aggrieved consumers.

1 (C) RULEMAKING.—Pursuant to section
2 553 of title 5, United States Code, the Commis-
3 sion shall promulgate regulations to carry out
4 the provisions of this section. The Commission
5 shall issue a final rule by not later than 1 year
6 after the date of enactment of this Act.

7 (2) ENFORCEMENT BY STATES.—

8 (A) IN GENERAL.—In any case in which
9 the attorney general of a State has reason to
10 believe that an interest of the residents of the
11 State has been or is threatened or adversely af-
12 fected by the engagement of any data broker
13 subject to subsection (a) in a practice that vio-
14 lates such subsection, the attorney general of
15 the State may, as *parens patriae*, bring a civil
16 action on behalf of the residents of the State in
17 an appropriate district court of the United
18 States—

19 (i) to enjoin further violation of such
20 subsection by such person;

21 (ii) to compel compliance with such
22 subsection; and

23 (iii) to obtain damages, restitution, or
24 other compensation on behalf of such resi-
25 dents.

1 (B) RIGHTS OF FEDERAL TRADE COMMIS-
2 SION.—

3 (i) NOTICE TO FEDERAL TRADE COM-
4 MISSION.—

5 (I) IN GENERAL.—Except as pro-
6 vided in subclause (III), the attorney
7 general of a State shall notify the
8 Commission in writing that the attor-
9 ney general intends to bring a civil ac-
10 tion under subparagraph (A) not later
11 than 10 days before initiating the civil
12 action.

13 (II) CONTENTS.—The notifica-
14 tion required by subclause (I) with re-
15 spect to a civil action shall include a
16 copy of the complaint to be filed to
17 initiate the civil action.

18 (III) EXCEPTION.—If it is not
19 feasible for the attorney general of a
20 State to provide the notification re-
21 quired by subclause (I) before initi-
22 ating a civil action under subpara-
23 graph (A), the attorney general shall
24 notify the Commission immediately
25 upon instituting the civil action.

1 (ii) INTERVENTION BY FEDERAL
2 TRADE COMMISSION.—The Commission
3 may—

4 (I) intervene in any civil action
5 brought by the attorney general of a
6 State under subparagraph (A); and

7 (II) upon intervening—

8 (aa) be heard on all matters
9 arising in the civil action; and

10 (bb) file petitions for appeal
11 of a decision in the civil action.

12 (C) INVESTIGATORY POWERS.—Nothing in
13 this paragraph may be construed to prevent the
14 attorney general of a State from exercising the
15 powers conferred on the attorney general by the
16 laws of the State to conduct investigations, to
17 administer oaths or affirmations, or to compel
18 the attendance of witnesses or the production of
19 documentary or other evidence.

20 (D) PREEMPTIVE ACTION BY FEDERAL
21 TRADE COMMISSION.—If the Commission insti-
22 tutes a civil action or an administrative action
23 with respect to a violation of subsection (a), the
24 attorney general of a State may not, during the
25 pendency of such action, bring a civil action

1 under subparagraph (A) against any defendant
2 named in the complaint of the Commission for
3 the violation with respect to which the Commis-
4 sion instituted such action.

5 (E) VENUE; SERVICE OF PROCESS.—

6 (i) VENUE.—Any action brought
7 under subparagraph (A) may be brought
8 in—

9 (I) the district court of the
10 United States that meets applicable
11 requirements relating to venue under
12 section 1391 of title 28, United States
13 Code; or

14 (II) another court of competent
15 jurisdiction.

16 (ii) SERVICE OF PROCESS.—In an ac-
17 tion brought under subparagraph (A),
18 process may be served in any district in
19 which the defendant—

20 (I) is an inhabitant; or

21 (II) may be found.

22 (c) DEFINITIONS.—In this section:

23 (1) COMMISSION.—The term “Commission”
24 means the Federal Trade Commission.

1 (2) CONSUMER.—The term “consumer” means
2 an individual residing in a State.

3 (3) COVERED NATION.—The term “covered na-
4 tion” has the meaning given that term in section
5 4872(d)(2) of title 10, United States Code.

6 (4) DATA BROKER.—The term “data broker”
7 means a business that knowingly collects and sells to
8 third parties the personal information of a consumer
9 with whom the business does not have a direct rela-
10 tionship.

11 (5) MILITARY SERVICEMEMBER LIST.—The
12 term “military servicemember list” means a list that
13 includes personal information (other than public
14 record information) about one or more individuals or
15 households which is created for the express or im-
16 plied purpose of compiling information about individ-
17 uals who are current or former servicemembers (as
18 that term is defined in section 3911(1) of title 50,
19 United States Code).

20 (6) PERSONAL INFORMATION.—The term “per-
21 sonal information” means information that is linked
22 or reasonably linkable to any identified or identifi-
23 able person or device.

24 (7) PUBLIC RECORD INFORMATION.—The term
25 “public record information” means information that

1 is lawfully made available from Federal, State, or
2 local government records provided that the data
3 broker processes and transfers such information in
4 accordance with any restrictions or terms of use
5 placed on the information by the relevant govern-
6 ment entity.

7 (8) STATE.—The term “State” means any
8 State of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, Guam, American
10 Samoa, the Commonwealth of the Northern Mariana
11 Islands, and the United States Virgin Islands.

