

115TH CONGRESS
2D SESSION

S. RES. _____

Encouraging companies to apply privacy protections included in the General Data Protection Regulation of the European Union to citizens of the United States.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY (for himself and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Encouraging companies to apply privacy protections included in the General Data Protection Regulation of the European Union to citizens of the United States.

Whereas the European Union has enacted the General Data Protection Regulation (referred to in this preamble as the “GDPR”), which provides the 508,000,000 residents of the European Union with significant new privacy protections;

Whereas the GDPR takes effect on May 25, 2018;

Whereas the rules of the GDPR will apply to many entities in the United States that serve users and customers in both Europe and the United States;

Whereas the GDPR requires that—

(1) data processors have a legal basis for processing the data of users; and

(2) opt-in, freely given, specific, informed, and unambiguous consent from users is a primary legal basis;

Whereas polling shows that people in the United States are increasingly concerned about their privacy and the security of their personal information;

Whereas recent data breaches and privacy invasions affecting millions of people in the United States underscore the need for enhanced privacy protection in the United States; and

Whereas people in the United States have a right to privacy, and entities that control and process the data of people in the United States have an obligation to protect that data: Now, therefore, be it

1 *Resolved*, That the Senate encourages entities covered
2 by the General Data Protection Regulation of the Euro-
3 pean Union (referred to in this resolving clause as the
4 “GDPR”), including edge providers, broadband providers,
5 and data brokers—

6 (1) to provide the people of the United States
7 with the privacy protections included in the GDPR
8 in a manner consistent with existing laws and rights
9 in the United States, including the First Amend-
10 ment; and

11 (2) to include in the protections described in
12 paragraph (1)—

13 (A) the requirement that—

1 (i) data processors (as described in
2 the GDPR) have a legal basis for proc-
3 essing the data of users;

4 (ii) opt-in, freely given, specific, in-
5 formed, and unambiguous consent from
6 users be a primary legal basis for purposes
7 of clause (i);

8 (iii) data processors design their sys-
9 tems in a way that—

10 (I) minimizes the processing of
11 data to only what is necessary for the
12 specific purpose stated to the indi-
13 vidual; and

14 (II) by default, protects personal
15 information from being used for other
16 purposes;

17 (iv) entities processing the data of
18 children institute special protections, par-
19 ticularly with reference to the use of the
20 data of children for marketing purposes;

21 (v) data processors and controllers (as
22 described in the GDPR) ensure compliance
23 with relevant privacy rules; and

- 1 (vi) data processors implement appro-
2 priate oversight over third party data pro-
3 cessors; and
- 4 (B) the right of an individual—
- 5 (i) to revoke consent for data pro-
6 cessing at any time;
- 7 (ii) to not be subject to automated de-
8 cisionmaking, including profiling, without
9 human intervention if the decisionmaking
10 has legal or otherwise significant effects on
11 the individual;
- 12 (iii) to know which entities have ac-
13 cess to the data of the individual and how
14 that data is being used;
- 15 (iv) to correct the data of the indi-
16 vidual if it is inaccurate or incomplete; and
- 17 (v) to obtain and reuse the data of the
18 individual for the purposes of the indi-
19 vidual across other services.