

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 904 (Senator Hester, *et al.*)
Budget and Taxation and Finance

**Data Brokers - Registry and Gross Income Tax (Building Information
Guardrails Data Act of 2025)**

This bill imposes a 6% tax on the gross income of a data broker and distributes the revenue to several special funds (after deductions for administrative costs). The bill also establishes a Privacy Protection and Enforcement Unit within the Division of Consumer Protection of the Office of the Attorney General (OAG). The purpose of the new unit is to protect the privacy and online security of individuals' personal information and the individuals' digital rights and to protect the public from unfair, abusive, or deceptive practices involving artificial intelligence (AI), cybersecurity, and other online or digital privacy issues. **The bill generally takes effect July 1, 2025; the data broker gross income tax applies to taxable years beginning after December 31, 2026.**

Fiscal Summary

State Effect: Special fund revenues increase by a significant amount beginning in FY 2027. Under one set of assumptions, State revenues increase by \$90 million in the first full year that the data broker gross income tax is imposed and collected. By year four of full implementation, State revenues could increase by over \$100 million. State expenditures at the Comptroller's Office increase by \$1.6 million in FY 2027 and by \$0.3 million in FY 2030. State expenditures for the new unit at OAG increases by \$1.3 million in FY 2026 and by \$1.8 million in FY 2030.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Privacy Protection and Enforcement Unit

The Privacy Protection and Enforcement Unit established by the bill must (1) enforce the Maryland Age-Appropriate Design Code Act and any State or federal laws involving technology, online services and products, cybersecurity, AI, and digital privacy; (2) empower and educate State consumers with information on their rights and strategies for protecting the consumer's privacy, online safety, and security against risks associated with AI, cybersecurity breaches, and other digital threats; and (3) assist, advise, and cooperate with local, State, and federal agencies and officials to protect and promote the interests of consumers in the State regarding privacy-related issues, cybersecurity risks, AI, and unlawful online conduct or practices. The unit must also enforce the Online Data Privacy Act upon the taking effect of Chapters 454 and 455 of 2024.

The bill requires that the greater of 0.75% or \$2.5 million in revenues from the data broker gross income tax be distributed to a special fund to be used only for the purposes of the unit.

Data Broker Gross Income Tax

The bill imposes a 6% tax on the annual gross income of a data broker based on an apportionment formula. Revenues from the data broker gross income tax are distributed to several special funds, after the Comptroller's costs to administer the tax are deducted, as follows:

- the greater of 0.75% or \$2.5 million to the special fund for the use of the Privacy Protection and Enforcement Unit;
- the greater of 0.75% or \$2.5 million to the Information Technology Investment Fund for expedited projects related to AI;
- the greater of 0.75% or \$2.5 million to a special fund used by Maryland Public Television to provide digital literacy support to students in kindergarten through twelfth grade;
- the greater of 35% or \$120.0 million to the Coordinated Community Supports Partnership Fund; and
- any remainder revenue to the Blueprint for Maryland's Future Fund (BMFF).

Data Broker Registry

The bill requires data brokers to register with the Comptroller, unless the brokered personal data involves any of the following: (1) providing publicly available information that is related to a resident individual's business or profession; (2) providing publicly available information as part of a service that provides alerts for health or safety purposes; (3) providing directory assistance or directory information services as or on behalf of a telecommunications carrier; or (4) selling the assets of a business entity or a part of a business entity a single time or only occasionally as part of a transfer of control over the assets that is not part of the ordinary conduct of the business entity or a part of the business entity. Registrations are valid for one year and must contain specified information, including the name and address of the data broker and the type of data being brokered.

The Comptroller must establish a registration fee in an amount that is sufficient to pay the costs of administering the registration program. The registration fee must be deposited in the general fund.

The Comptroller must make the information that business entities submit for registration purposes publicly available on the Comptroller's website. By December 31, 2026, and by each following December 31, the Comptroller must report to the Governor and General Assembly on the following: (1) how many business entities registered with the Comptroller as data brokers in that year; (2) the registration fee charged by the Comptroller and the total revenue collected; (3) how many business entities were fined for noncompliance; and (4) any other information the Comptroller determines is relevant.

Tax Returns

Each data broker that has gross income derived from data brokering in a calendar year must complete, under oath, and file a return with the Comptroller on or before April 15 the next year. A person required to file a return must maintain records on how the calculation of the tax owed was based. A person who willfully fails to file a data broker gross income tax is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$5,000 and/or imprisonment of up to five years.

Definitions

A data broker is defined as any business entity that engages in data brokering. A data broker does not include (1) a specified consumer reporting agency, a person that furnishes information to a consumer reporting agency, or a user of a consumer report, to the extent that they are subject to regulation under the Federal Fair Credit Reporting Act; and (2) a specified financial institution, an affiliate, or a nonaffiliated third party, to the extent that they are subject to specified regulations under the Gramm-Leach-Bliley Act.

Data brokering is defined as the act of collecting, aggregating, analyzing, buying, selling, and sharing brokered personal data.

Gross income is defined as the value proceeding or accruing by reason of collecting, aggregating, analyzing, buying, selling, and sharing brokered personal data without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense paid or accrued and without any deduction on account of losses.

Current Law: Chapter 37 of 2021 imposed a digital advertising gross revenues tax on the annual gross revenues of a person derived from digital advertising services in the State. The part of the annual gross revenues of a person derived from digital advertising services in the State must be determined using an apportionment fraction based on the annual gross revenues of a person derived from digital advertising services in the State and the annual gross revenues of a person derived from digital advertising services in the United States.

The tax is imposed at the following rates:

- 2.5% of the assessable base for a person with global annual gross revenues of \$100.0 million through \$1.0 billion;
- 5% of the assessable base for a person with global annual gross revenues of \$1.0 billion through \$5.0 billion;
- 7.5% of the assessable base for a person with global annual gross revenues of \$5.0 billion through \$15.0 billion; and
- 10% of the assessable base for a person with global annual gross revenues exceeding \$15.0 billion.

Revenues from the tax are distributed to BMFF, after the Comptroller's costs to administer the tax are deducted.

State Revenues: Based on an analysis by the Comptroller's Office, special fund revenues may increase by a significant amount beginning in fiscal 2027. Under one set of assumptions, special fund revenues could increase by \$90 million in the first full year that the data broker gross income tax is imposed and collected. By year four of full implementation, special fund revenues could increase by over \$100 million. The assumptions used in the estimate are outlined below:

- Gross revenues from data brokers in the United States totaled approximately \$84.6 billion in 2024.
- Revenues increase by 5% annually.
- 80% of revenues are taxable under the bill.
- Maryland represents 1.85% of the total U.S. population.

State Expenditures: Imposing the new gross income tax on data brokers will result in the need for additional staffing at the Comptroller’s Office; whereas establishing the Privacy Protection and Enforcement Unit will result in the need for additional staffing at OAG. As a result, State expenditures will increase by a significant amount with the costs at the Comptroller’s Office beginning in fiscal 2027 with the onset of the new tax, while costs at OAG begin in fiscal 2026. The administrative costs at both agencies are required to be funded by proceeds from the new tax. However, until the new tax is fully implemented, the administrative costs may need to be initially covered through the general fund.

Comptroller’s Office

The Comptroller’s Office will need additional personnel to administer the new tax, including one senior tax attorney and two revenue examiners. The new staff will be tasked with identifying businesses subject to the tax, processing tax returns and payments, auditing tax returns and payments, enforcing tax compliance, and handling expected litigation. The additional personnel costs are projected to total \$143,100 in fiscal 2027 and \$260,800 by fiscal 2030. These costs include salaries, fringe benefits, and ongoing operating expenses. In addition, the Comptroller’s Office will incur \$1.5 million in computer programming expenses in fiscal 2027 to add the new data broker gross income tax to the current tax system. These costs include discovery, design, development, testing, and system interfaces.

Positions	3.0
Salaries and Fringe Benefits	\$121,788
Computer Programming Expenses	1,500,000
Operating Expenses	<u>21,278</u>
Total FY 2027 State Expenditures	\$1,643,066

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Office of the Attorney General

OAG advises that it will need 13 additional positions to carry out the new responsibilities under the bill, including 7 full-time assistant Attorney Generals, 1 technology supervisor, 2 technology specialists, 1 administrator, 1 management associate, and 1 investigator. The estimated costs for these additional positions total \$1.3 million in fiscal 2026 and \$1.8 million in fiscal 2030. These costs include salaries, fringe benefits, and ongoing operating expenses.

Positions	13.0
Salaries and Fringe Benefits	\$1,223,489
Operating Expenses	<u>95,794</u>
Total FY 2026 State Expenditures	\$1,319,283

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1089 (Delegate Solomon) - Economic Matters and Ways and Means.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Department of Legislative Services

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js/hlb

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