



## Consumer Data Privacy Laws

By Andrea Denka

There is a growing concern about the security of the personal information being entered, stored, and shared online as more services and purchases are accessed through web applications. This *issue brief* provides an overview of consumer data privacy, describes applicable federal laws, and summarizes recent state legislation proposed to strengthen consumer data privacy laws.

### Consumer Data

According to the U.S. General Services Administration, personally identifiable information, or PII, is data that can be used to detect and trace an individual's identity.<sup>1</sup> Examples of PII are name, social security number, and bank account number. Consumer data is also data that can be used to identify a specific person, but usually centers on behavioral and demographic identifiable information like website browser history, color preferences, and number of hours spent online per day. Consumer data is collected in a variety of ways when a person uses the internet, including when making purchases, accessing websites, and using social media. Consumer data has become a way for businesses and other entities to analyze their users to improve user experience, to learn how to better engage target markets, and to better target their consumer base.

**Data Privacy.** While consumer data may allow businesses to better understand their customers, concerns arise about how the data is used and sold. For example, a consumer purchases a black

umbrella from an online business. The business may sell information about this consumer's preference of black umbrellas to another organization for a profit without the consumer's knowledge. Soon the consumer starts receiving unwanted targeted ads on certain websites and social media pages for black umbrellas.

Generally this data, and other types of consumer data, are not currently protected by regulation in most states except for when used by government agencies. Businesses and other private sector organizations may be able to collect and sell consumer data that is not PII to other organizations without the consumer's consent. In addition to certain federal regulation, states have recently considered new legislation to address consumer data privacy.

### Federal Regulation

While there are no recently enacted federal laws explicitly addressing consumer data privacy, numerous regulations exist to protect specific types of PII collected for certain industries, like financial and health organizations, and the government. Federal regulation of data privacy addresses what type of data the government and these institutions can collect, store, and share with other entities. Federal regulations also exist to protect the PII of children under the age of 18. This data, however, is usually collected by the government or other entities because the person must be identified to receive a certain benefit such

<sup>1</sup>Rules and Policies Protecting PII Privacy Act, U.S. General Services Administration, <https://www.gsa.gov/reference/gsa-privacy-program/rules-and-policies-protecting-pii-privacy-act>

as health insurance or a credit card. Federal regulations that address data privacy include the U.S. Data Privacy Act, the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach-Bliley Act (GLBA), and the Children's Online Privacy Protection Act.

Colorado has recently enacted legislation that addresses data privacy. [House Bill 18-1128](#) requires government entities in Colorado that retain paper or electronic documents with PII to develop and maintain a policy for the destruction and proper disposal of these documents. The bill also requires the government entity to notify the affected class of Colorado residents of a data security breach.

## Recent Legislation in Other States

According to the National Conference of State Legislatures (NCSL), over 20 states proposed legislation related to consumer data privacy in recent years. Examples of recently enacted legislation are described below.

**California.** [The California Consumer Privacy Act](#), enacted in 2018, grants consumers the right to request that a business disclose the personal information that it collects, sells, or discloses about them. The act also allows consumers the right to opt out of the sale of personal information to third parties and prohibits businesses from discriminating against consumers who exercise those rights. In addition, if a consumer's personal information is released due to a company's failure to implement reasonable security information protocols, the company can be found liable.

**Maine.** [Senate Bill 19-275](#) prohibits a broadband internet provider from using, disclosing, selling, or permitting access to customer personal information unless the provider receives consent from the customer.

**Nevada.** [Senate Bill 19-220](#) revised definitions in existing law that requires internet operators that collect PII to notify consumers about the privacy of

the collected information. The bill also allows consumers the right to opt out of the sale of personal information.

## Legislation Requiring Studies

In addition to legislation related to consumer data privacy, according to NCSL, several states proposed legislation authorizing the study of consumer data privacy concerns.

**Connecticut.** [Senate Bill 19-1108](#) establishes a task force to study consumer interest in data protection and is required to examine what businesses in the state should be required to disclose to consumers about the information they collect and use. The task force must study relevant legislation in other states, including the California Consumer Privacy Act of 2018.

**Louisiana.** [House Resolution 249](#) requires the Southern University Law Center to establish a task force to study and report on the effects of the sale of consumer personal information to internet access service providers, social media companies, search engines, or other website and providers of online services that collect and sell this information.

**North Dakota.** [House Bill 19-1485](#) requires the legislative management to study protections, enforcement, and remedies regarding the disclosure of consumers' personal data. The study must include a review of the privacy laws in other states and applicable federal law.

**Texas.** [House Bill 19-4390](#) creates the Texas Privacy Protection Advisory Council to study data privacy laws in the state, other states, and relevant foreign jurisdictions that govern the privacy and protection of identifiable information. The council must make recommendations to the legislature on specific statutory changes necessary to improve data protection.