

STATE "OMNIBUS" PRIVACY LAW COMPARISON SHEET

In 2018, California enacted the California Consumer Privacy Act ("CCPA"), the first state-level "omnibus" privacy law, which imposes broad obligations on businesses to provide state residents with transparency and control of their personal data. This year, Maine and Nevada have followed suit and passed legislation focused on consumer privacy, and Pennsylvania has a consumer privacy bill currently under legislative review. Other states in which US companies do business saw similar legislation, such as Hawaii, Illinois, Massachusetts, Mississippi, New Mexico, New York, Rhode Island, Texas, and Washington. However, those state bills did not pass this year. Nonetheless, companies should consider that those state bills could be reintroduced and garner support should privacy become a hot topic for state residents and the US generally going forward.

The chart below provides a high-level summary of the new state privacy laws that have been enacted, and it also summarizes the Pennsylvania bill, which, if signed into law, will become effective immediately. We will provide updates regarding the Pennsylvania bill as they become available, and we will continue to track state-level consumer privacy legislative efforts. If you have any questions, please do not hesitate to reach out to the Contact Partners below.

Last Updated: July 3, 2019

State and Bill	Status	Scope	Definition of Consumer	Employee Data	Consumer Rights	Notice Requirements	Discrimination Provision	Requirements for Minors	Private Right of Action	Penalties	Exemptions
California Link to Bill SB 1121	Signed into law - June 28, 2018 Effective Date - January 1, 2019 Operative Date - January 1, 2020	Any for-profit legal entity that meets one of the following criteria: (1) has > \$25 MM revenue; (2) annually buys, sells, receives, or shares the personal information ("PI") of more than 50,000 consumers, households, or devices (3) derives more than 1/2 of revenue from selling PI. Also covers businesses that share common branding and are controlled by a covered entity.	All state consumers, defined as natural persons who are state residents.	No carve-out for employee data, but note that an amendment (AB 25) to the bill has been proposed that would specifically exclude employees and job applicants from the definition of "consumer" under the CCPA.	Access; deletion in certain circumstances; opt-out.	Must disclose at, or before, collection (1) a description of consumers' rights, (2) one or more designated methods for submitting verifiable consumer requests, (3) a list of categories of PI collected in the preceding 12 months and the purposes therefor, (4) if business sells PI, a list of categories of PI sold in the preceding 12 months, (5) a list of categories of PI disclosed for a business purpose in the preceding 12 months, and (6) a "Do Not Sell My Identifying Information" link.	Discrimination for exercising rights is prohibited, but business may offer financial incentives if directly related to the value derived from the consumer's data.	Prohibits selling PI of a consumer under 16 years of age, unless affirmatively authorized by the minor aged 13 to 16 or by a parent for children under 13.	Businesses are subject to a private right of action for certain data breaches that result from violations of a business's duty to implement and maintain reasonable security.	\$2,500 per violation or \$7,500 per intentional violation. Note the law does not place a cap on the total amount of fines.	Data collected pursuant to a number of federal sectoral privacy laws is exempt, including the Health Insurance Portability and Accountability Act ("HIPAA"), Gramm-Leach-Bliley Act ("GLBA"), and others.
Maine Link to Bill LD 946 / SP 275	Signed into law - June 6, 2019 Effective Date - July 1, 2020	Applies to entities operating within Maine when providing broadband Internet access service to customers that are physically located and billed for service received in Maine.	Customer means an applicant for or a current or former subscriber of broadband Internet access service.	Unlikely, unless entity provides broadband Internet access service.	Opt-in consent for provider to use, disclose, sell (not defined), or permit access to the customer's PI. Customer can revoke consent at any time.	Must disclose at the point of sale, and on the provider's publicly accessible website, the provider's obligations and customers' rights.	Not specified.	Not specified.	None.	Not specified.	Not specified.
Nevada	Signed into	Any person who owns	A person who	"Consumer" is	Opt-out.	Must disclose (1) the	Not specified.	Not specified.	None.	Up to	Data

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Link to Bill SB 220	law - May 30, 2019 Effective Date - October 1, 2020	or operates an Internet website or online service for a commercial purpose with a sufficient nexus to Nevada.	seeks or acquires, by purchase or by lease, any good, service, money or credit for personal, family or household purposes from the Internet website or online service of an operation.	defined as a person who seeks or acquires goods, services, money or credit from a website or online service operators, so would not appear to apply to employee information.		categories of covered information to be collected, (2) the categories of third parties with whom the covered information may be shared, (3) a description of the process for consumer to review and request changes to his or her covered information, (4) the process through which the operator notifies consumer of material changes to the notice, (5) whether third parties may collect covered information from different sources, and (6) the effective date of the notice.				\$5,000 for each violation.	collected pursuant HIPAA and GLBA is exempt.
Pennsylvania Link to Bill HB 1049	Referred to Consumer Affairs - April 5, 2019 Effective Date - If passed, it will take effect immediately	Any for-profit legal entity that meets one of the following criteria: (1) has > \$10 MM revenue; (2) collects PI from more than 50,000 consumers, households, or devices; and (3) more than 50% of revenue is from selling PI. Also covers businesses that share common branding and are controlled by a covered entity.	Not defined.	PI expressly includes "employment related information."	Access; deletion in certain circumstances; opt-out.	Must disclose (1) a description of consumers' rights, (2) the categories of PI to be collected, (3) the categories of sources from which the PI is collected, (4) the business or commercial purpose for collecting or selling PI, (5) the categories of third parties with whom the business shares PI, (6) the specific pieces of PI the business has collected about consumers, (7) whether PI will be sold and the right to opt out, and (8) a "Do Not Sell My Personal Information" link.	Discrimination for exercising rights is prohibited, but business may offer different price for goods or services if the difference is related to the value derived from the consumer's data.	Prohibits selling PI of a consumer under 16 years of age, unless affirmatively authorized by the minor aged 13-16, or by a parent for children under 13.	Businesses are subject to a private right of action for certain data breaches that result from violations of a business's duty to implement and maintain reasonable security. Damages of \$100- \$750 per consumer per incident.	Up to \$7,500 per each violation	The law does not restrict businesses in their ability to comply with federal, state or local laws (including civil and criminal investigations or regulatory inquiries).

Contact Partners:



Brian Hengesbaugh,
Chair, Global Data Privacy &
Security Practice
Chicago
+1 312 861 3077
brian.hengesbaugh
@bakermckenzie.com



Amy de La Lama
Chicago
+1 312 861 2923
amy.delalama@
bakermckenzie.com



Lothar Determann
Palo Alto
+1 650 856 5533
lothar.determann@
bakermckenzie.com



Michael Egan
Washington, DC
+1 202 452 7022
michael.egan
@bakermckenzie.com



Brandon Moseberry
Chicago
+1 312 861 8265
brandon.moseberry
@bakermckenzie.com



Harry Valetk
New York
+1 212 626 4285
harry.valetk
@bakermckenzie.com