



What's next

The reach of the California Consumer Privacy Act (CCPA): How CCPA is changing the US privacy landscape

April 2019



The US path to data protection

The regulatory landscape for privacy in the United States continues to evolve. California's new law may well have inspired legislators in other states to introduce bills to protect consumer data, although not necessarily in identical fashion.

The following states as of the time of publishing have recently introduced legislation similar to the CCPA where consumers are allowed access to the data a business holds for them. This alert is intended to provide a high-level overview of several emerging regulations. If the legislation is enacted, it may contain different or additional provisions from those contained in its present form.

State	Link to Legislation	Provisions and history
Hawaii SB 418	https://www.capitol.hawaii.gov/session2019/bills/SB418_.htm	<ul style="list-style-type: none"> — Requires notification to consumers of information collected and purpose for collection — Includes Right of Access, Right of Deletion; Right to Opt Out of Third Party Sales — Customer Access Request Timeline 45 days — A person may be authorized to act on a consumer's behalf pursuant to the Office of Consumer Protection, but no information is provided about a civil penalty.
Maryland Cross filed: SB 0613 HB 0901	http://mgaleg.maryland.gov/2019RS/bills/sb/sb0613f.pdf	<ul style="list-style-type: none"> — Requires notification to consumers of information collected, purpose for use, and third party disclosure (including purpose for disclosure) — Includes Right of Access, Right of Deletion; Right to Opt Out of Third Party Disclosure — Customer Access Request Timeline 45 days — There is no information provided about a private right of action, but a civil penalty not exceeding \$2,500 for each violation of not exceeding \$7,500 for each intentional violation is available.
Massachusetts S 120	https://malegislature.gov/Bills/191/SD341	<ul style="list-style-type: none"> — Requires notification to consumers of information collected, purpose for use, third party disclosure (including purpose for disclosure) — Includes Right of Access, Right of Deletion; Right to Opt Out of Third Party Disclosure — Customer Access Request Timeline 45 days — A consumer can receive damages in an amount not greater than \$750 per consumer per incident or actual damages, whichever is greater. There is also a civil penalty not exceeding \$2,500 for each violation or not exceeding \$7,500 for each intentional violation.

State	Link to Legislation	Provisions and history
New Mexico SB 176	https://www.nmlegis.gov/Sessions/19 Regular/bills/senate/SB0176.pdf	<ul style="list-style-type: none"> — Requires notification at or before point of collection of categories of information being collected, purposes for use, whether the information might be sold; consumer’s rights — Includes Right of Access, Right of Deletion, Right to Opt Out of Sale of Consumer’s Personal Information — Customer Access Request Timeline 45 days — Any consumer whose non-encrypted or non-redacted personal information is subject to certain conditions (e.g. unauthorized access, theft, disclosure, etc.) can recover actual damages. There is a civil penalty of up to \$10,000 for each violation.
New York S 00224	https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S00224&term=2019&Summary=Y&Actions=Y&Text=Y	<ul style="list-style-type: none"> — Requires notification via the privacy policy of consumer’s rights if the business retains customer’s personal information or discloses personal information to a third party; also allows notice before or immediately following disclosure of personal information to third parties — Right of Access, cited as the “Right to Know” — Customer Access Request Timeline is 30 days — This act is stated to take effect immediately. There is no information provided about private right of action or civil penalty; however, it amends the general business law.
North Dakota HB 1845	https://www.legis.nd.gov/assembly/66-2019/documents/19-0780-03000.pdf	<ul style="list-style-type: none"> — Express written consent required in certain circumstances before disclosure — Right of Access — Customer Access Request Timeline is 45 days — There is a private right of action and if there is a violation of a cease and desist order, the Attorney General can collect a civil penalty of not less than \$100,000 and not more than \$250,000.
Rhode Island 2019—S 0234 2019—H 5930	http://webserver.rilin.state.ri.us/BillText/BillText19/SenateText19/S0234.pdf http://webserver.rilin.state.ri.us/BillText19/HouseText19/H5930.htm	<ul style="list-style-type: none"> — Requires notification at or before point of collection of categories of information being collected, purposes for use; notification of selling of personal information; consumer’s rights. — Right of Access, Right of Deletion, Right to Learn of Third Party Disclosure/ Sales and Opt-Out — Customer Access Request Timeline is 45 days. — Any consumer whose non-encrypted or non-redacted personal information is subject to certain conditions (e.g. unauthorized access, theft, disclosure, etc.) can recover damages in an amount not less than \$100 and not more than \$750 per consumer, per incident, or the consumer’s actual damages, whichever is greater.
Texas HB 4518	https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB04518l.pdf#navpanes=0	<ul style="list-style-type: none"> — Upon a verified request/at or before the point of collection, requires disclosure of information such as categories of information and “specific items of personal information” the business has collected, category of sources from which information was collected, purpose, category of third parties that share the information. — Right of Access, Right of Deletion, Right to Learn of Third Party Disclosure/ Sales and Opt-Out — Customer Access Request Timeline is 45 days — The attorney general is entitled to recover reasonable expenses and \$2,500 for each violation; \$7,500 if the violation is intentional

The State of Washington has introduced a law that is more like the General Data Protection Regulation.

State	Link to Legislation	Provisions and history
<p>Washington Companion Bills: HB 1854— 2019-20 SB 5376— 2019-20</p>	<p>https://app.leg.wa.gov/billssummary?BillNumber=1854&Initiative=false&Year=2019</p> <p>https://app.leg.wa.gov/billssummary?BillNumber=5376&Chamber=Senate&Year=2019</p>	<ul style="list-style-type: none"> — Consumers have right to access personal data concerning the consumer that the controller holds and, in certain circumstances, require the controller to provide the data in a “structured, commonly used, and machine-readable format.” — Controllers must correct inaccurate personal data and, in certain listed situations, to delete personal data at the request of the consumer. — Controllers must conduct and document risk assessments concerning the processing of personal data <i>before</i> engaging in such processing or whenever the controller changed the processing in a way that would materially impact consumers. — Requires <i>opt-in</i> consent for <i>any</i> processing activity—including internal use—if the risks to the consumer outweighed other interests. — Provide privacy notices “in a form that is reasonably accessible to consumers” and that contain: <ul style="list-style-type: none"> – Categories of personal data collected – Purposes for which such categories are used and disclosed to third parties – Rights that consumers have with respect to personal data – Categories of personal data that the controller shares with third parties – Categories of such third parties – If the controller engages in “profiling,” meaningful information about the logic involved and the significance and likely consequences of the profiling – If the controller “sells” personal data to data brokers or processes personal data for direct marketing, a statement that the controller engages in such processing, as well as how the consumer may object to such processing — Washington attorney general could bring a civil action. Companies would be subject to an injunction and liable for civil penalties of up to \$2,500 per violation, or \$7,500 per intentional violation. No private action.

How KPMG can help

Irrespective of regulatory drivers, the breadth and depth of leading practices in the privacy space do not represent small, incremental changes, but foundational changes to the way many organizations manage and process data. KPMG has significant experience driving change for clients preparing for CCPA and the GDPR and can help clients prepare for these laws as well. Learn more about KPMG’s approach to driving change by reviewing our most recent article on helping our clients comply with the CCPA. That paper titled, “Driving Change” can be found at: <https://advisory.kpmg.us/articles/2018/driving-change.html>

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