

Do you know what your neighbor is doing?

What Canadian businesses need to know about the changing privacy landscape in the US

Speakers



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US Data Privacy Overview

Legal Framework Snapshot

Federal

Unfair
Business

Children

Financial Laws

Healthcare Laws

FTC Act

COPPA

Fair Credit
Reporting
Act

GLBA

HIPAA

HITECH

State

Data
breach

**Consumer
privacy
laws**

Health
information

Cyber

Children

Biometric
information

Insurance
information

Financial
information

US Data Privacy Overview

California Leading The Way



1971 Californian voters amended Constitution to add right of privacy



2004 California Online Privacy Protection Act (amended in 2013)



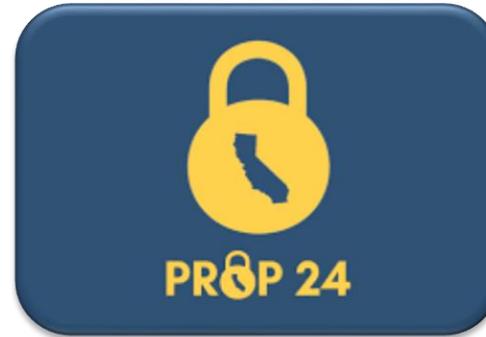
2005 California Shine The Light



2013 California Privacy Rights for Minors in the Digital World



2018 California Consumer Privacy Act (CCPA)



2020 California Consumer Privacy Rights Act (CPRA)

US Data Privacy Overview

So Goes California...So Goes Virginia

Virginia Consumer Data Protection Act

- Signed into law on 3/2/21
- Effective 1/1/23
- Uses GDPR related language, less like the CCPA.
- Broad new rights.
- Broad obligations
- No private right of action



US Data Privacy Overview

So Goes California...So Goes The Nation



2021 Virginia Consumer Data Protection Act



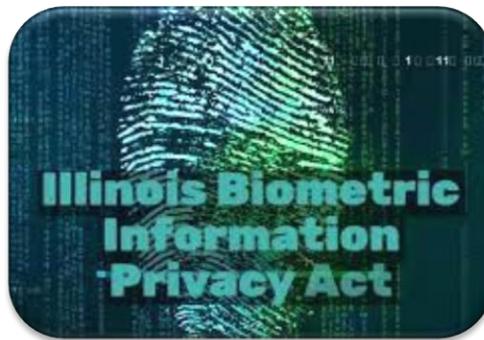
Florida considering the Florida Privacy Protection Act



Additionally active bills in CT, AK, NJ



Introduced bills in AL, CO, IL, MA, MN, NV, NY, NC, PA



Biometric bills on the rise. BIPA in IL heavily litigated tool



Federal legislation is pending

US Data Privacy

There's more...

Additional Statutory Risk

Federal Wiretap Act Prohibits the unauthorized “interception” of an “electronic communication”. State counterparts. Being used to allege website tracking is a “wiretap.”

Computer Fraud and Abuse Act Prohibits the unauthorized “access” of a computer. Being used as it relates to data scraping.

Data Breach Notification. All 50 states have their own data breach notification statutes.

Federal standards. Breach notification rules apply under unique regulatory regimes, such as the HIPAA Breach Notification Rule and the FCC Medical Notification Rule.

Litigation Developments

BIPA Litigation. Hundreds of class actions. Illinois Supreme Court held no damage necessary to have standing. Strict compliance requirements.

CCPA Litigation. Limited private right of action for a negligent data breach. What constitutes “reasonable” security?

Increase In Related Litigation. Breach of contract, negligence, and unfair business practices arising out of these specific statutes. This will only continue to grow.

What's next in the litigation battles?

US Data Privacy Overview

So Goes California...So Goes The Nation

Know Thyself

Strategic
Considerations

Vendor
Management

Align Internal
Processes

Address Low-
Hanging Fruit

Don't Sleep
On Security

Thank you

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