

EMERGING PRIVACY LAW & ENFORCEMENT



Topics for Today

1. State(s) of Play
2. Consumer Rights
3. Data Brokers
4. Data Minimization & Sensitive Data
5. Minors: Children & Teens
6. Bulk Sensitive Data Transfers
7. Investigations

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State(s) of Play

Laws, Rules & Regulations

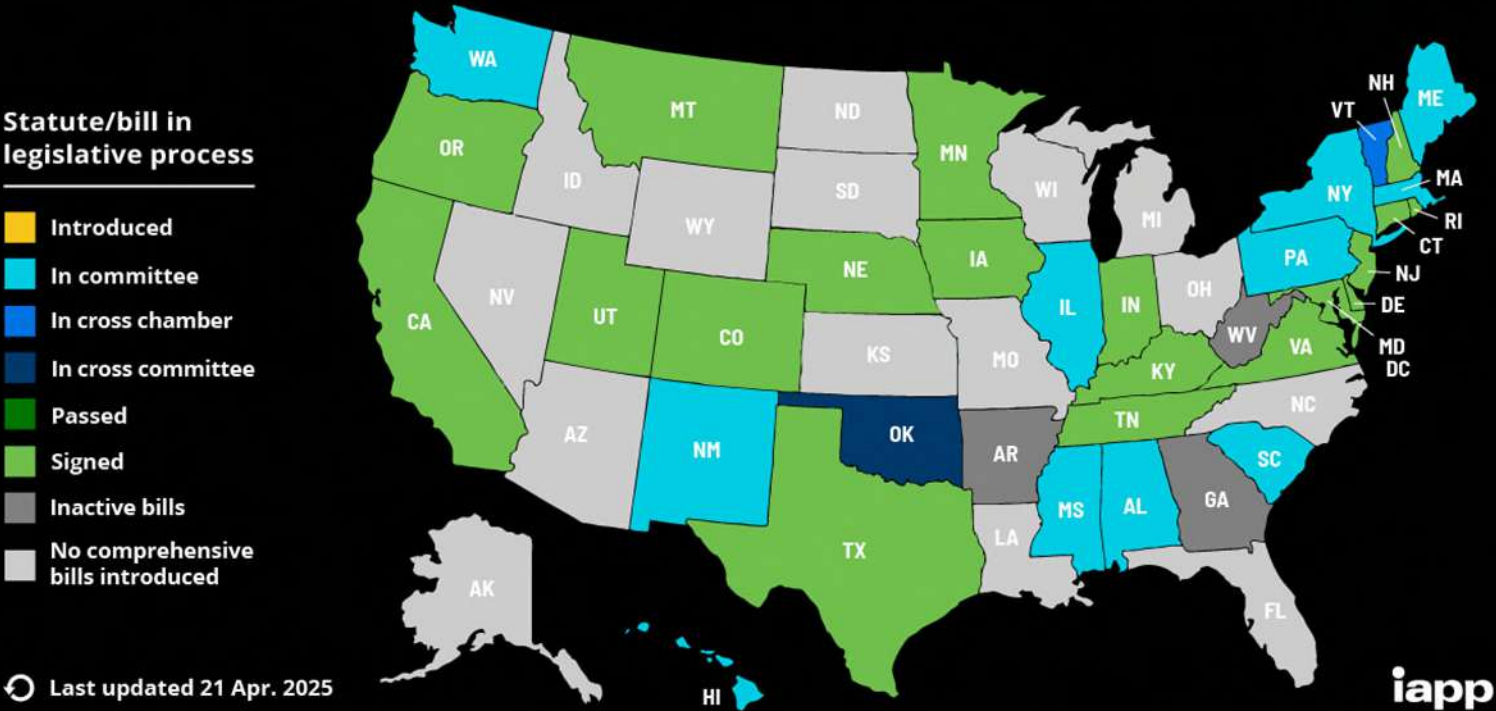
Federal

No comprehensive privacy law
 FTC Act
 Sectoral (*e.g.*, *COPPA*, *CAN-SPAM*, *TCPA*, *HIPAA*, *HBNR*, *GLBA*, *FCRA*, *VPPA*, *FERPA*)

State / City

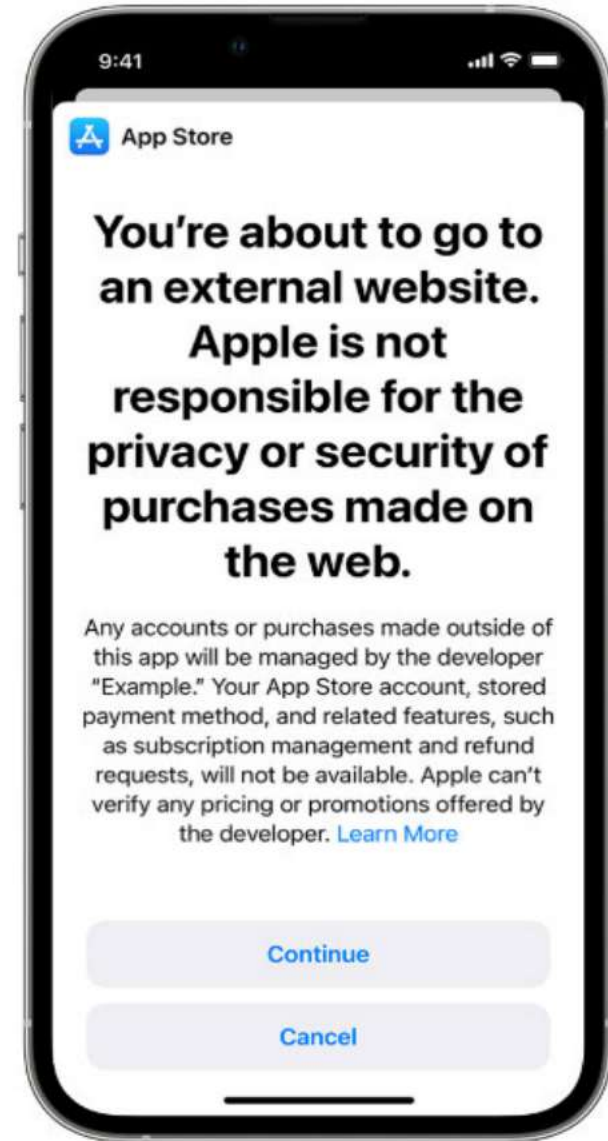
19+ comprehensive laws
 Consumer protection laws
 Sectoral (*e.g.*, *BIPA*, *CIPA*, *MHMD*, *SOPIPA*)
 Security and breach laws

US State Privacy Legislation Tracker 2025



Frameworks, Codes & Contracts

Contract	<i>e.g., data processing addendums</i>
Platform	<i>e.g., iOS, Android, Chrome</i>
Industry	<i>e.g., NAI, IAB, DAA</i>
Frameworks	<i>e.g., NIST</i>
Standards	<i>e.g., PCI DSS, ISO 27001</i>
Seals	<i>e.g., ESRB Privacy Certified</i>



2

Consumer Rights

Consumer Rights	
Verifiable requests	Know, access, data portability, correct, delete, obtain a list of categories or specific third parties
Opt-Out	Sales, shares, targeted advertising
Profiling	Opt-out, specific Minnesota requirements, *ADMT
Sensitive data	Limit the use and disclosure, opt-in
Minors	13-15, 16, 17
Consent	Withdraw consent
Process	Non-discrimination, appeals, authorized agents, preference signals

Honda Settlement (CPPA, March 2025)

- The CPPA's Enforcement Division alleged that Honda violated CCPA by:
 - (i) requiring Californians to **verify themselves** and **provide excessive personal information** to exercise opt-out rights;
 - (ii) using an online privacy management tool that failed to offer Californians their privacy choices in a **symmetrical or equal way**;
 - (iii) impermissibly requiring Californians to directly confirm opt-out rights invoked by **authorized agents**; and
 - (iv) sharing personal information with advertising companies without governing **contracts**.
- Resulted in \$632,500 fine. Honda agreed to:
 - (a) implement a new and simpler process for Californians to assert their privacy rights;
 - (b) certify its compliance, train its employees, and consult a user experience (UX) designer; and
 - (c) change its contracting process to protect personal information.

Todd Snyder Settlement (CPPA, Today)

- The CPPA's Enforcement Division alleged that TS violated CCPA by:
 - (i) requiring Californians to **verify themselves** and **provide excessive personal information** to exercise opt-out rights;
 - (ii) failing to oversee and configure properly the technical infrastructure of its privacy portal, resulting in a failure to process consumer requests to opt out of the sale or sharing of personal information for 40 days;
- Resulted in \$345,178 fine. In addition to other requirements, shall maintain a contract management and tracking process to ensure that contractual terms required by CCPA are in place.
- “Businesses should scrutinize their privacy management solutions to ensure they comply with the law and work as intended, because the buck stops with the businesses that use them,” said Michael Macko, head of the Agency's Enforcement Division. “Using a consent management platform doesn't get you off the hook for compliance.”

i. Verification + Excessive Information

HONDA CONSUMER PRIVACY RIGHTS REQUEST FORM

Honda values your privacy. If you are a resident of a state that grants you consumer rights governing data usage, you may submit a request by completing the form below. You may also submit a request [by phone](#). The personal information you provide as part of this request will be used to process your request and for no other reason.

☐ **If you are making this request for yourself, skip this step. Check this box if you are an authorized agent making this request on behalf of another person who is a resident of one of the states listed.** If you are an authorized agent submitting on behalf of the below resident, you must verify your own identity and provide a copy of a lawful power of attorney or proof that the resident gave you written permission to act on their behalf. A separate correspondence with instructions will be sent to the preferred communication method selected in the form below.

Before submitting your request, we recommend you review our [Privacy Notice](#) which contains information on the collection, use and disclosure of your personal information.

To opt out of certain uses of cookies and tracking tools, navigate to the cookies link in the footer of the site that you last visited. Cookies settings are specific to your browser and/or device. Changes to the browser or device you are using may require you to update your cookie preferences.

In accordance with applicable law and as further detailed in our [Privacy Notice](#), residents of the below states may exercise consumer rights governing data usage. If your state is not listed, the general Privacy Notice applies. Requests submitted by residents of states not listed below may not have their request fulfilled.

State of Requestor*

Type of Request*

☐ Do Not Sell or Share My Personal Information
☐ Limit Use of My Sensitive Personal Information
☐ Opt-Out of Automated Decision Making and Profiling
☐ Personal Information Disclosure
☐ Delete My Personal Information

First Name*

Last Name*

Address Line 1*

Address Line 2

City*

State*

ZIP Code*

Preferred Method to Receive Updates About This Request*

Email*

Confirm Email*

Phone Number*

Select which product(s) you own or have owned (leave blank if none)

☐ Honda ☐ Acura ☐ Powersports ☐ Power Equipment ☐ Marine

VIN or Serial Number


VIN or Serial Number

VIN or Serial Number

VIN or Serial Number

VIN or Serial Number

☐ My engagement with Honda is commercial as a vendor, partner, service provider, or similar type of business (non-consumer) relationship.

☐ I'm not a robot 


Submit



To apply data minimization principles to these requests, the business could start by asking itself the following questions, as set forth in 11 CCR § 7002(c)-(d):

- What is the minimum personal information that is necessary to achieve this purpose (*i.e.*, identity verification)?
- We already have certain personal information from this consumer. Do we need to ask for more personal information than we already have?
- What are the possible negative impacts posed if we collect or use the personal information in this manner?
- Are there additional safeguards we could put in place to address the possible negative impacts?

ii. Symmetrical or Equal Way

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The Power of Dreams

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This website uses cookies and other tracking technologies to enhance user experience, target ads, and analyze performance and traffic on our website. The information collected via cookies might relate to you, your preferences, or your device and is used to provide expected web functionality and to provide a more personalized web experience. We also disclose information about your use of our site to social media, advertising and analytics partners.

You may opt-out of certain types of cookies through the "Manage Cookie Preferences" feature below. Please note that opting out of some types of cookies may impact your experience on our website and the services we are able to offer. If we detect an opt-out preference signal, we will honor it to the extent described in our [Privacy Notice](#). Please visit our [Privacy Notice](#) (which contains our [Cookie Section](#)) and [California Privacy Notice](#) for more information.


To exercise additional rights you may have under applicable state laws with regard to personal information collected and processed about you (as described in our [Privacy Notice](#)), please [click here](#) to submit a request.

Allow All

Manage Cookie Preferences

+ Strictly Necessary Cookies	Always Active
+ Performance Cookies	<input checked="" type="checkbox"/>
+ Functional Cookies	<input checked="" type="checkbox"/>
+ Advertising Cookies	<input type="checkbox"/>

Confirm My Choices

Powered by 

iii. Authorized Agents

HONDA CONSUMER PRIVACY RIGHTS REQUEST FORM
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iv. Contracts

- Controller to Processor / Service Provider:

- Instructions for processing
- Nature and purpose of processing
- Type of personal data and duration of processing
- Rights and obligations of both parties
- Ensuring duty of confidentiality
- Return or deletion obligations
- Record keeping obligations
- Assessment rights
- Subprocessor obligations
- CCPA service provider language
- Standard contractual clauses (where applicable)

- Controller to Controller / Third Party

- CCPA third party language
- Standard contractual clauses (where applicable)

- What is not required by law:

- “Non-negotiable”
- Cross-references
- Disclaimers of liability
- Indemnification
- Insurance
- Reps and warranties

- What is often negotiated:

- Definitions
- Audit rights
- Authorization for subprocessors
- Timeframes for return and deletion
- Costs of assistance
- Party responsible for notice and consent
- Security obligations

3

Data Brokers

Data Broker States

- California
- Texas
- Vermont
- Oregon



Data Broker Promoting Ability to Dig Up “Scary” Amounts of Information Agrees to Shut Down

News: February 27, 2025

SACRAMENTO – The Enforcement Division of the California Privacy Protection Agency (CPPA) has reached a settlement agreement with Background Alert, Inc., a California-based data broker, for failing to register and pay an annual fee as required by the Delete Act. The settlement requires Background Alert to shut down its operations through 2028 or face a \$50,000 fine. The CPPA's Board approved the settlement on February 26, 2025.

The settlement is the latest action in an ongoing [investigative sweep](#) of data broker registration compliance, announced on October 30, 2024. Businesses that operated as data brokers in 2024 had until January 31 of this year to register with the CPPA or face fines of \$200 per day.

The Enforcement Division alleged that Background Alert created and sold profiles about people through its website, backgroundalert.com. According to a Stipulated Final Order resolving the case, Background Alert amassed billions of public records, drew inferences from those records to identify people who “may somehow be associated with” a searched-for individual, and identified patterns to generate profiles about consumers. Background Alert promoted its business by saying, “It's scary how much information you can dig up on someone.”

Within the next 15 days, Background Alert will cease its operations for three years to resolve the Enforcement Division's claims that the company failed to register between February 1 and October 8, 2024. The Stipulated Final Order requires Background Alert to pay a \$50,000 fine if it violates any term of the agreement, including the requirement to shut down its data broker operations through 2028.

California Delete Act

- Any business that sells personal information about a consumer with whom it does not have a direct relationship is a **data broker** and must register annually online. Fee is \$6,600.
- Will be required to create a DROP account (Aug 1, 26). Must access account once every 45 days to access consumer delete list.
- Must delete all data unless collected directly via first party relationship. Must instruct service providers. Must report status online.
- Must undergo independent audit every 3 years to assess compliance (Jan 1, 28)

(d) (a) “Direct relationship” means that a consumer has intentionally interacted ~~ed~~ with a business for the purpose of ~~obtaining information about~~, accessing, purchasing, using, ~~or requesting, or obtaining information about~~ the business’s products or services ~~within the preceding three years~~. A consumer does not have a “direct relationship” with a business if the purpose of their engagement is only to exercise any right described under ~~Title 1.81.5 of Part 4 of Division 3 of the Civil Code~~ Civil Code section 1798, or for the business to verify the consumer’s identity. A business does not have a “direct relationship” with a consumer simply because it collects personal information directly from the consumer; the consumer must intend to interact with the business. A business is still a data broker ~~if it has and does not have~~ if it has and does not have a direct relationship with a consumer ~~but also sells as to personal information it sells about the consumer that it collected outside of a “first party” interaction with the consumer, as that term is defined in California Code of Regulations, title 11, section 7001~~ the business did not collect directly from the consumer.



Frequently Asked Questions for Data Brokers

What is a data broker?

A business entity whose principal source of revenue is derived from the collecting, processing, or transferring of personal data that the entity did not collect directly from the individual linked or linkable to the data.

Tex. Bus. & Com. Code § 509.001.

1. Are data brokers required to register with the Secretary of State?

Yes. Section 509.005 of the Business and Commerce Code provides that a data broker must register with the Secretary of State in order to conduct business in Texas. See [Form 4001 \(PDF\)](#). A data broker registers by filing a registration statement with Secretary of State, which must be accompanied by the \$300 registration fee. The Secretary of State will issue a registration certificate upon filing a completed registration statement.

A registration certificate is effective for one year and may be renewed by filing a renewal application with and paying the \$300 renewal fee to the Secretary of State.

Texas AG v. Allstate (January 2025)

- Allegations
 - (i) Subsidiary Arity (mobility data and analytics company) embedded SDK in third-party mobile apps to collect precise geolocation data from 45 million+ consumers without their knowledge or consent
 - (ii) Compiled data (including purchased driver data) into “the world’s largest driving behavior database” to justify raising premiums and sell insights to other insurers
- Specific claims:
 - (a) **Texas Data Privacy and Security Act:** No clear affirmative consent, privacy notices, or opt-out offered for sales or targeted advertising
 - (b) **Texas Data Broker Law:** Failed to register as a data broker
 - (c) **Texas Insurance Code:** Failed to verify consumer consent before purchasing driver data from vehicle manufacturers, and unlawfully used driver data for underwriting and rate-setting
 - (d) **Relief Sought:** Restitution for affected consumers; civil penalties; injunctive relief (stop collection, register as broker, update notices); destruction of unlawfully collected data

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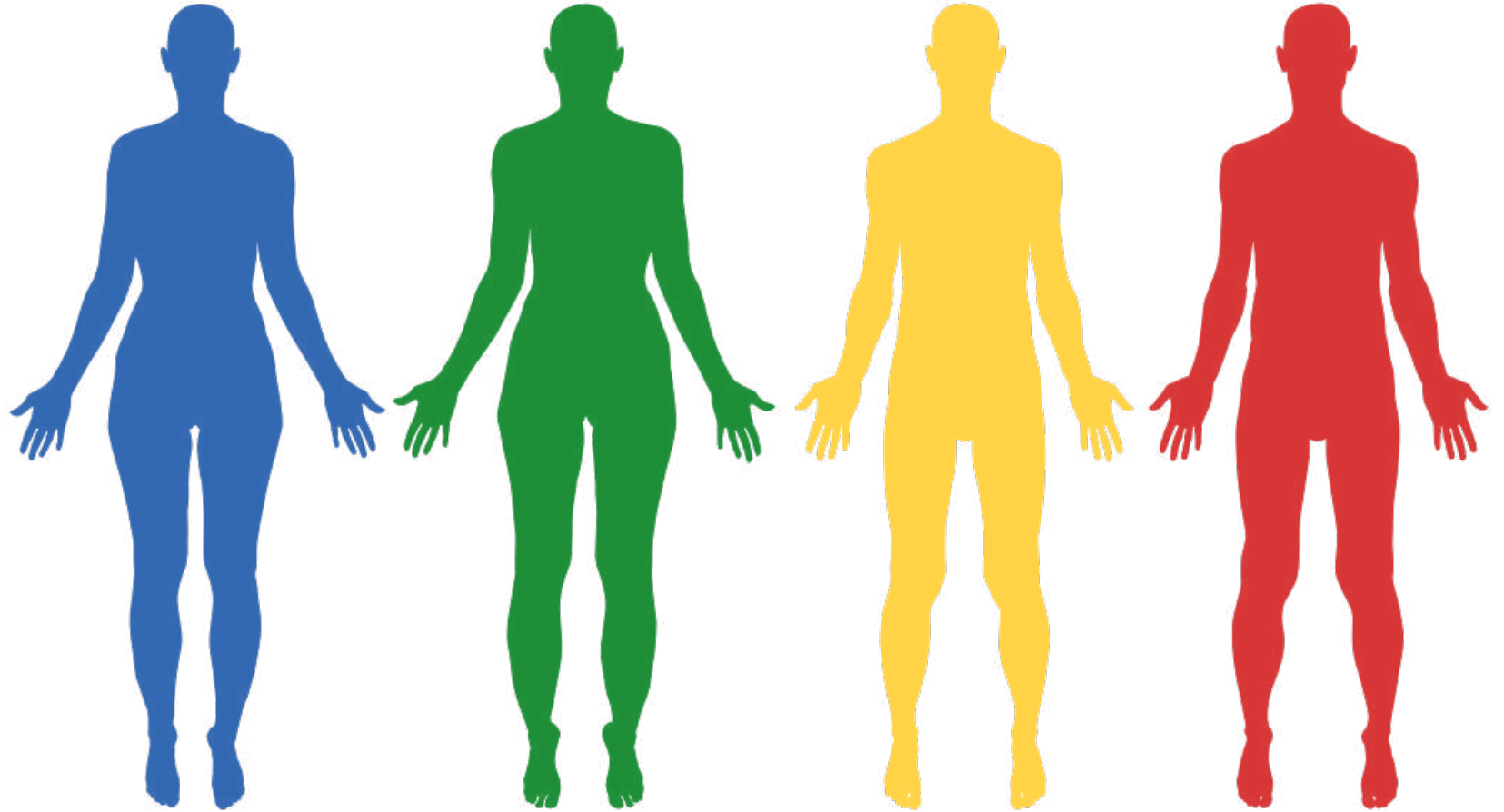
Data Minimization & Sensitive Data

Data Minimization - Maryland

- Effective Oct 1, 2025. Enforcement April 1, 2026
- Requirements
- (1) A controller must limit the collection of personal data to what is reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains.
- (2) A controller may not collect, process, or share sensitive personal data unless it is strictly necessary to provide or maintain a specific product or service requested by the consumer to whom the personal data pertains.

Sensitive Data - Health Data

- Washington
- Virginia
- Colorado
- New York
- FTC – Ferguson



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Minors: Children & Teens

Children & Teens

- COPPA
 - Still main law that governs collection of personal information from children under 13
 - Must obtain verifiable parental consent prior to collection unless an exception applies
 - Also requires privacy policy, parental control, security, retention limitations, not conditioning participation on more Information than reasonably necessary
 - Many states incorporate COPPA and/ or have other obligations
- COPPA Rule (compliance date: April 22, 2026)
 - Must obtain separate verifiable parental consent for third-party non-integral disclosures
 - Must include identities and specific categories of third parties to which operator discloses PI
 - Enhanced data security, retention, and deletion obligations
- Teens
 - Many states require opt-in to sales / targeted advertising 13-15, 16, 17
 - Other new laws (e.g., New York Child Data Protection Act)

Tilting Point Settlement (March 2025)

- Resulted in \$500,000 fine. TP agreed to:
 - (a) not sell or share personal information of users under 13 without parental consent;
 - (b) not sell or share personal information of users 13-15 without affirmative opt-in;
 - (c) provide neutral age screens and clear disclosures;
 - (d) maintain appropriate advertising for children;
 - (e) implement a formal governance framework for SDKs; and
 - (f) implement an ongoing compliance program, and annual reporting.

Roku Violated Child Privacy Laws, Michigan Attorney General Alleges in Lawsuit

Story by Todd Spangler • 3d • 3 min read



Roku Violated Child Privacy Laws, Michigan Attorney General Alleges in Lawsuit

Roku has illegally collected personal information of children without the required notice and without obtaining parental consent, the Michigan attorney general alleged in a lawsuit filed Tuesday. In a statement, Roku said it "strongly disagrees" with the "inaccurate claims" in the lawsuit.

6

Bulk Sensitive Data Transfers

- **Rule Overview**
 - **What:** Final Rule implementing Executive Order 14117 to prevent access to U.S. bulk sensitive personal data and U.S. government-related data by “countries of concern” and “covered persons”
 - **Issued:** December 27, 2024; **Effective:** April 8, 2025; **Enforcement:** July 8, 2025 (criminal enforcement in effect)
- **Covered Data & Persons**
 - **Data:** Bulk sensitive personal data (identifiers (e.g., SSNs, device IDs), precise geolocation, biometric, health, financial) and government-related data (personnel records, sensitive location data of current/recent US gov employees)
 - **“Bulk” Thresholds:** Vary by data type (e.g., ≥100 000 identifiers; ≥10 000 health records; ≥1 000 geolocation or biometric records; ≥100 genomic records)
 - **Countries of Concern:** China (incl. Hong Kong/Macau), Cuba, Iran, North Korea, Russia, Venezuela
 - **Covered Persons:** Foreign governments, entities, or individuals under the control of a country of concern
- **Prohibitions & Restrictions**
 - **Prohibited Transactions:** Sale, licensing, transfer, export, or facilitation of access to covered data in bulk to countries of concern or covered persons
 - **Restricted Transactions:** Vendor, employment, investment, or similar agreements granting access to covered data—permitted only if stringent due diligence, audit, reporting, and CISA-defined security measures are met

- **Compliance Requirements**
 - **Security Controls:** Encrypt covered data; apply data-minimization; annual independent audits
 - **Due Diligence:** Vet/monitor counterparties for “covered person” status; verify foreign ownership
 - **Contracts & Records:** Onward-transfer clauses; retain all transaction records ≥10 years; document compliance program
 - **Reporting:** Submit covered-transaction reports and cooperate with DOJ inquiries
- **Penalties**
 - **Civil:** Up to \$368 136 per violation (or 2× transaction value); injunctive relief (halt transfers, destroy data)
 - **Criminal:** Up to \$1 million fine and 20 years imprisonment

7

Investigations

How do companies get on the radar?

- Sweeps
 - Website or mobile app sweeps
 - Sector-focused (e.g., retailers)
 - Practice-focused sweeps (e.g., loyalty programs)
- Consumer complaints
- Social media
- News, reports, investigations
- Data breaches
- Lawsuits



What to do if you receive a request?

- Have documentation ready – best defense is a good offense
- Immediately contact legal counsel
- Legal hold
- Develop a strategy
- Timely respond
- Don't be antagonistic



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May 04, 2025

Apple violated U.S. court order, ending Apple's 27% "commission" on external purchases

By Emma Smizer

As the saying goes, justice delayed is justice denied. Or perhaps more accurately, a bad apple spoils the bunch. On April 30, 2025,...



April 21, 2025

Countdown to Compliance Begins on FTC's New COPPA Rule

By Andrew Folks, Maria Nava

On April 22, 2025 — just in time for Commissioner Andrew Ferguson's keynote at the IAPP Global Privacy Summit — the Federal Trade...

The Patchwork Dispatch

