

Subject Consumer data privacy

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Overview

This bill would create a “Minnesota Consumer Data Privacy Act,” which regulates the collection and treatment of personal data by private entities and gives individuals certain rights regarding that personal data. The bill is closely based on legislation introduced in the state of Washington, Senate Bill 5062 (2021).

Summary

Section	Description
1	<p>Citation.</p> <p>Provides a title for the law.</p>
2	<p>Definitions.</p> <p>Defines relevant terms and sets parameters for them.</p>
3	<p>Scope; exclusions.</p> <p>Subd. 1. Scope. Specifies what kind of entities are subject to the bill. In general, the bill would apply to legal entities that conduct business in Minnesota and that control or process larger amounts of personal data.</p> <p>Subd. 2. Exclusions. Specifies what kind of entities and what types of information are <i>not</i> subject to the law. Many of these exclusions concern kinds of data that are already regulated under existing federal laws.</p>
4	<p>Responsibility according to role.</p> <p>Specifies the obligations of data controllers and data processors, both of which are defined terms in section 2. These obligations include, but are not limited to:</p> <ul style="list-style-type: none">▪ processors must assist controllers in fulfilling certain controller obligations that implicate data processing;

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- processors must ensure that their employees protect data confidentiality and that their subcontractors also adhere to processor obligations regarding personal data;
- implementing appropriate data security measures; and
- that controller-processor relationships be governed by contracts with specified requirements.

This section also specifies that determining whether an entity is acting as a “controller” or “processor” for purposes of the law shall be a fact-based determination.

5 Consumer personal data rights.

Subd. 1. Consumer rights provided. Gives an individual consumer the following rights with regard to his or her personal data maintained by a controller:

- right to access the data;
- right to correct inaccurate data;
- right to delete the data;
- right to obtain a copy of the data; and
- right to opt-out of sale of the data or processing the data for targeted advertising.

Subd. 2. Exercising consumer rights. Allows the consumer to exercise the rights in subdivision 1 by sending a request to a controller.

Subd. 3. Controller response to consumer requests. Requires controllers to respond to a consumer request under subdivision 2 and sets forth relevant timelines for the response.

Subd. 4. Appeal process required. Requires controllers to establish an internal appeal process for consumers when a request under subdivision 2 is denied.

6 Processing deidentified data or pseudonymous data.

“Deidentified data” and “pseudonymous data” are defined in section 2 of the bill. Generally, they are personal data that do not and/or cannot be linked to a specific person. In general, this section exempts truly deidentified or pseudonymous data from the consumer rights contained in section 5.

7 Responsibilities of controllers.

Subd. 1. Transparency obligations. Requires controllers to provide consumers with a privacy notice regarding how the controller collects, uses, and shares

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	<p>personal data, and how a consumer can exercise his or her personal data rights under section 5 of the bill.</p> <p>Subd. 2. Use of data. Limits a controller’s ability to collect and use personal data. Requires controllers to implement data security practices. Requires a controller to obtain a consumer’s consent in order to process “sensitive data,” a defined term in section 2 of the bill.</p> <p>Subd. 3. Nondiscrimination. Prohibits discrimination in the processing of personal data based on certain consumer characteristics. Prohibits controllers from discriminating against consumers who exercise personal data rights under section 5 of the bill. Prohibits controllers from selling personal data as part of a loyalty or discount program, unless certain exceptions apply.</p> <p>Subd. 4. Waiver of rights unenforceable. Disallows any provision of a contract in which a consumer agrees to waive rights given by this bill.</p>
8	<p>Data protection assessments.</p> <p>Requires controllers to assess the security of personal data involved in specified processing activities. Allows the attorney general to require a controller to disclose a data protection assessment in connection with an investigation.</p>
9	<p>Limitations and applicability.</p> <p>Clarifies that the bill does not restrict a controller’s or a processor’s ability to comply with other laws or legal processes or to engage in enumerated activities. Shields controllers from liability when a third-party misuses personal data received from the controller.</p>
10	<p>Attorney general enforcement.</p> <p>Allows the attorney general—after first sending a warning letter and allowing an opportunity to cure a violation—to bring a civil action against a controller or processor for a violation of this chapter. Allows the state to recover legal expenses and provides for injunctive relief and a civil penalty of no more than \$7,500 per violation.</p>
11	<p>Preemption of local law; severability.</p> <p>States that the bill supersedes any local laws regarding the processing of personal data. States that, if a court holds any provision of the bill invalid, the remainder of the bill is not affected.</p>

Section	Description
12	Effective date. Provides an effective date of July 31, 2022, for most controllers/processors. Provides a later effective date of July 31, 2026, for the specified controllers/processors.



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