

**Draft State Laws**  
 (New Mexico, New York, North Dakota, and Rhode Island)

	New Mexico	New York	North Dakota	Rhode Island
Effective Date	July 1, 2020	Upon approval	Not specified	Upon approval
Overall Approach	Modeled after CCPA, but eliminates duplicative obligations.	Requires disclosure regarding sharing of data to third parties and creates an access right.	Prohibits disclosure of personal information without express written consent from data subject.	Modeled after CCPA but does contemplate AG rulemaking or AG enforcement.
Scope of Application	Any corporation, joint venture, limited liability company, partnership, limited liability partnership, real estate investment trust or sole proprietor; or any entity that shares common branding and is controlled by such an organization.	Any entity doing business in NY.	Any legal entity that meets one of the following criteria:  (1) Has \$25M+ revenue  (2) Collects PI from 50,000 consumers, households, or devices  (3) More than 50% of revenue is from selling PI.	Any for-profit legal entity that meets one of the following criteria:  (1) Has \$5M+ revenue  (2) Collects PI from more than 50,000 consumers  (3) More than 50% revenue is from third party disclosure of PI. Also covers businesses that share common branding and are controlled by a covered entity.
Definition of Consumer	Not defined.	Individual who is a resident of New York who provides PI to a business in course of commercial transaction, including "advertising or any other content."	Not defined	Natural person who is a Rhode Island resident.
Consumer Rights	Access; deletion in certain circumstances; opt-out.	Access (specific information held by entity AND names and third parties who have received the information).	Access	Access; deletion in certain circumstances; opt-out.
Notice Requirements	Must notify consumer at, or before collection, of the categories of information to be collected, the business purpose of the collection, whether the information will be sold and that the consumer has a right to opt-out, and two designated methods for exercising rights. Must also disclose in online privacy policy the categories of information collected, categories of information sold to third parties, and categories disclosed for a business purpose.	Businesses must provide notice prior to or immediately following the disclosure of PI to a third party; online privacy policies must explain consumer's rights under law.	None	Businesses must provide notice prior to or immediately following the disclosure of PI to a third party; online privacy policies must explain consumer's rights under law.

*This announcement is a publication of Davis Wright Tremaine LLP. Our purpose in publishing this announcement is to inform our clients and friends of recent legal developments. It is not intended, nor should it be used, as a substitute for specific legal advice as legal counsel may only be given in response to inquiries regarding particular situations. Attorney advertising. Prior results do not guarantee a similar outcome.*



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<b>Limitations on Differentiation of Services for the Provision of PI</b>	Prohibited, but business may offer financial incentives or differentiate if directly related to the value derived from the consumer's data.	None	None	Prohibited unless reasonably related to the value provided to the consumer by the consumer's data, but may offer financial incentives.
<b>Requirements Related to Data of Minors</b>	Business may not disclose information to third party if consumer is a minor, unless the legal guardian has opted-in.	None	Legal guardians must provide consent where the individual is under 18 years old.	None
<b>Private Right of Action</b>	Allows for civil lawsuit if any personal information is subject to unauthorized access due to failure of business to implement reasonable security. Damages of \$750 per consumer.	Allows for civil lawsuit for any violation of the statute.	Allows for civil lawsuit if information is purchase, received, sold, or shared without consent. Individual can recover "damages, costs and fees, including reasonable attorney's fees."	Allows for civil lawsuit if any personal information is subject to unauthorized access due to failure of business to implement reasonable security. Damages of \$100-\$750 per consumer.
<b>Penalties (AG Enforcement)</b>	\$10,000 per violation.	Not specified.	Initial remedy is cease and desist order; violation of order has penalty of \$100,000-\$250,000.	Not specified.
<b>Interaction With Federal Privacy Laws</b>	Exemption only if the provisions of the state law conflict with federal law.	No exemptions.	No exemptions.	No exemptions.
<b>Likelihood of Passing</b>	High. Democrats control both chambers of legislature and governor's office.	High. Democrats control both chambers of legislature and governor's office.	Uncertain. Republicans control legislative and executive branch, and bill was introduced by Republican sponsors.	High. Democrats control both chambers of legislature and governor's office.

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