

Texas comprehensive privacy law on the horizon

Jurisdictional applicability

The first step is to determine whether the business is in scope for the new Texas privacy law.

The Texas law will apply to all non-small businesses that either

- (1) conduct business in Texas or
- (2) produce products or services that are consumed by Texas residents **and** shares, discloses, transfers or sells personal data for monetary or other valuable consideration (such as targeted advertising).

Key requirements



Updating existing privacy policy to account for Texas privacy law;



Ensuring Texas opt-out requirements for sales, targeted advertising and profiling are honored;



Review and update existing consumer request procedures or draft new materials for Texas, if needed;



Ensure consent is obtained prior to the collection and use of sensitive data;



Review websites and mobile apps for “dark patterns” (i.e. manipulative designs) and remediate;



Conduct risk assessments for targeted advertising, sale of data, processing of sensitive data, profiling and “processing activities that present a heightened risk of harm to consumers”;



Review existing contracts and amend accordingly with required provisions.

Next steps



Set up a compliance kick-off call with Norton Rose Fulbright where we will work with you to begin a roadmap for Texas privacy compliance measures and repurpose any existing compliance measures (if any). Implementing privacy compliance measures, especially from a technical standpoint, requires coordination amongst business units and may need time to operationalize. While the law does not go into effect until July 1, 2024, we suggest starting sooner than later.



Keep in mind: While Texas has a cure provision, penalties may reach US\$7,500 for **each violation** (in other words, for websites or apps with hundreds or thousands of users, the potential exposure can quickly run into the hundreds of thousands, or millions).

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