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September 2, 2024



RE: *Implementation of the Delaware Personal Data Privacy Act*

Dear General Counsel,

I am writing to provide important information about the upcoming implementation of the Delaware Personal Data Privacy Act (DPDPA) starting January 1, 2025.

This new law provides Delawareans important tools to better protect their data privacy and establishes a level playing field for business to follow. As a business with a substantial presence in Delaware, I am confident your business will take these data privacy obligations seriously and encourage you to prepare for compliance now as the effective date of this law is fast approaching.

You can find a link to the full text of the law at [privacy.delaware.gov](https://www.privacy.delaware.gov). I encourage you to review the law in detail with your legal counsel based upon your business's unique circumstances.¹

What is the Delaware Personal Data Privacy Act?

The DPDPA, which can be found in Chapter 12D of Title 6 in the Delaware Code, is a comprehensive personal data privacy law that gives Delawareans new privacy rights when a business collects their personal data. Under this new law, a covered business must provide transparency about its personal data collection and processing practices and obtain consent from Delaware consumers when the business collects sensitive personal data such as race or ethnic origin, religious belief, sexual orientation, gender identity, or health information.

The law applies to a business, including a non-profit, that maintains personal data of at least 35,000 Delaware residents (or 10,000 Delaware residents if the business derives 20% of its revenue from the sale of data). Exemptions apply to certain regulated industries, such as financial companies, and certain information, like healthcare information covered by other laws.

¹ Please note this letter is provided for informational purposes only and does not represent a finding that your business is covered by the DPDPA or that you would not be in compliance.

Passed and signed into law in 2023, the DPDPA goes into effect on January 1, 2025, at which point the Department of Justice will begin evaluating businesses' compliance with the law's requirements.

What are the requirements of the DPDPA for businesses?

The law provides five key principles for a business to follow to protect Delawareans' personal data privacy:

Transparency: Provide consumers with reasonably accessible, clear, and meaningful privacy notice detailing the personal data collected by the business and how it is used.

Data Minimization: Only collect and process personal data relevant and reasonably necessary to the purposes identified for the goods or services provided by the business.

Security: Employ reasonable data security measures proportionate to the nature and sensitivity of the personal data collected to prevent unauthorized access to the data.

Accountability: Identify who is collecting and processing the data and provide contact information for those responsible for data privacy and security.

Documentation: Document where data is stored and processed and have binding contracts in place with third parties to ensure the proper use and security of shared consumer data.

What rights does the DPDPA provide to consumers?

Businesses need to prepare to obtain consent from consumers where required and handle consumer data requests from Delawareans beginning on January 1, 2025. New consumer rights include:

Consent: Businesses must obtain consent for the use and sharing of sensitive information collected about Delawareans.

Opt-Out Rights: Consumers may opt-out of the sale of their personal information, targeted advertising, and certain types of automated decision making.

Access and Deletion Rights: When requested, a business must provide consumers the personal data the business has collected about them and permit corrections or deletions.

Non-Discrimination: Personal data may not be used to discriminate against a consumer and a business may not discriminate against consumers exercising their privacy rights.

How can I find more information about this law?

Our data privacy team in the Consumer Protection Unit is committed to helping business navigate these new data privacy obligations.

The Consumer Protection Unit created privacy.delaware.gov to provide businesses and Delawareans with more information about this important new law. You can email inquiries to privacy@delaware.gov and the team will post answers under Frequently Asked Questions at privacy.delaware.gov. The Consumer Protection Unit will also continue to update the webpage to provide more information as January 2025 nears.

I wanted to provide you with a high-level summary of the new requirements under the DPDPA. You should discuss the law in detail with your legal counsel to better assess how it applies to the unique circumstance applicable to your business.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen Jennings". The signature is written in a cursive style with a large initial "K" and a long, sweeping tail on the "J".

Kathleen Jennings
Attorney General
State of Delaware