



July 15, 2021

OHIO PERSONAL PRIVACY ACT INTRODUCED IN OHIO GENERAL ASSEMBLY

On July 13, 2021, H.B. 376, the Ohio Personal Privacy Act ("OPPA"), was introduced in the Ohio General Assembly. The OPPA sets forth certain consumer privacy rights similar to those found in the California Consumer Privacy Act ("CCPA"), Virginia Consumer Data Protection Act ("VCDPA") and recently enacted Colorado Privacy Act ("CPA").

The OPPA applies to businesses that (i) conduct business in Ohio or produce products or services targeted to consumers in Ohio and (ii) satisfies one or more of the following thresholds: (a) the business's annual gross revenues generated in Ohio exceed \$25,000,000; (b) the business controls or processes the personal data of 100,000 consumers or more during a calendar year; or (c) the business derives over 50% of its gross revenue from the sale of personal data and processes or controls the personal data of 25,000 or more consumers during a calendar year. The OPPA defines business to mean any limited liability company, limited liability partnership, corporation, sole proprietorship, association or other group, however organized and regardless of whether operating for profit or not for profit, including a financial institution organized, chartered or holding a license authorizing operation under the laws of Ohio, any other state, the United States or any other country, or the parent or subsidiary of any of the foregoing. It is interesting that the OPPA defines "business" to include financial institutions, but also exempts financial institutions subject to the federal Gramm Leach Bliley Act privacy provisions ("GLBA"), as noted below.

The rights given to consumers in the OPPA include the right:

- To know the personal data that a business collects about that consumer;
- To request access to and the disclosure of the personal data that a business collects about the consumer;
- To delete personal data provided by or obtained about the consumer; and
- To request that a business that sells personal data to third parties not sell the consumer's personal data;

The rights in the OPPA given to consumers are more limited than

those found in the CCPA, CPA and VCDPA.

Similarly to the other state privacy laws, the OPPA requires that a business must provide consumers notice about the personal data that it processes about the consumer by providing a reasonably accessible, clear and conspicuously posted privacy policy setting forth certain information, including the categories of personal data the business processes and how individuals can exercise their rights under the OPPA.

The OPPA mirrors the CPA in that it requires a business to enter into written contracts with a data processor that sets out specific provisions related to processing consumers' personal data.

The OPPA mirrors the CPA and VCDPA as the OPPA expressly exempts a financial institution or an affiliate of a financial institution, or data subject to the "GLBA." This exemption differs from the CCPA exemption that only exempts data subject to the GLBA.

The OPPA also provides that the attorney general has exclusive authority to enforce the OPPA and does not set forth a private right of action. The OPPA provides a safe harbor for a business that creates, maintains and complies with a written privacy program that reasonably conforms to the national institute of standards and technology privacy framework entitled "A Tool for Improving Privacy through Enterprise Risk Management Version 1.0."

We will follow the OPPA as it moves through the Ohio General Assembly. Please let us know if you have any questions or need assistance with complying with state consumer data privacy law requirements. □

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