



## Maryland's Stringent New Privacy Law and Its Far-Reaching Impact

Governor Wes Moore recently signed into law the [Maryland Online Data Privacy Act](#) of 2024 (MODPA), enacting sweeping new rights for consumers with regard to their personal data, and creating an immense new burden for businesses that control and process consumer data. Maryland is one of 19 states to enact such laws. Despite the Act's name, MODPA is **not** limited to data obtained and/or processed online.

### Who does the Act apply to?

The Act applies to any person that conducts business in the state or provides products or services that are targeted to residents of the State, and that during the preceding calendar year did any of the following:

- Controlled or processed the personal data of at least 35,000 consumers;
- Controlled or processed the personal data of at least 10,000 consumers and derived more than 20% of its gross revenue from the sale of personal data.

The Act applies to **Personal Data**—any information that is linked or can be reasonably linked to an identified or identifiable consumer.

- Personal data does not include de-identified data or publicly available information.

### When does MODPA go into effect?

October 1, 2025

- Note: the effective date for data processing activities is not until **April 1, 2026**.

### What is a data “controller”? What about data “processors”?

**Controller:** a person that, alone or jointly with others, determines the purpose and means of processing personal data.

**Processor:** a person that processes personal data on behalf of a controller.

### What consumer rights does the Act establish?

Under MODPA, data controllers are required to do the following upon request from a consumer:

- **Right to confirm and access:** Confirm whether they are processing that Consumer's

- personal data, and if they are, provide access to that data;
- **Right to correct:** Correct inaccuracies in the Consumer's data;
- **Right to delete:** Delete the Consumer's data (unless retention is required by law);
- **Right to portability:** Provide the Consumer with a portable copy of their personal data;
- **Right to be informed of disclosure:** Provide the Consumer with a list of third parties to which the Controller has disclosed the Consumer's data; and
- **Right to opt-out:** Honor the Consumer's requests to opt-out of the processing of their personal data for the sale of that data, targeted advertising, or profiling.

### What do businesses need to do to be compliant with MODPA?

- Establish a method for consumers to exercise their rights
- Comply with consumer requests to exercise their rights
- Provide consumers with a privacy notice
- Create data processing agreements with all data processors
- Conduct data protection assessments for processing activities with heightened risk of harm to consumers
- Adhere to data minimization limitations
- Specifically, data controllers must: "limit the collection of **personal data** to what is **reasonably necessary** and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains."

In addition, except where "**strictly necessary** to provide or maintain a specific product or service requested by the consumer to whom the personal data pertains," controllers may not "collect, process, or share **sensitive data** concerning a customer."

- **Sensitive Data** includes personal data revealing racial or ethnic background, religious beliefs, consumer health data, sex life, sexual orientation, status as transgender or nonbinary, national origin, or citizenship or immigration status.

### How will the law be enforced?

The ACT will be enforced by the state's attorney general. Any violation of the Act is an "unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA)."

*\*This client alert is for informational purposes and is not legal advice. View [previous issues](#) of Monday Minute.*

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## What's Next?

To discuss your organization's preparedness for MODPA's impact, please reach out to:

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