

Privacy & Data Security Law

Colorado Senate Passes Consumer Privacy Bill Unanimously

By Jake Holland

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- Would give consumers right to opt out of data processing
 - Bill now heads to Colorado House for consideration, vote
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The Colorado Senate passed a comprehensive consumer privacy bill Wednesday, sending it to the state's House of Representatives for consideration.

If enacted, the statute would be the second state-level comprehensive consumer privacy bill to pass this year. Virginia's governor signed its bill into law in March.

The Colorado bill would give consumers the right to opt out of the processing of their personal data and request it be corrected or deleted. The Senate passed it unanimously.

The bill, if passed in its current form, doesn't have a private right of action and would be enforced by the state's attorney general and district attorneys.

It allows for the Colorado attorney general to adopt rules that "detail the technical specifications for one or more universal opt-out mechanisms," according to the bill text.

A universal opt-out mechanism would make it easier for consumers to request companies not sell their information without having to individually contact each business, said David Stauss, a Denver-based privacy and data security partner at Husch Blackwell LLP.

The bill has a 60-day right to cure provision that would give businesses time to remedy potential violations before an enforcement action is brought against them, Stauss said.

But that cure period is set to go away in January 2025, according to the bill text.

Cure periods can hobble meaningful enforcement because companies may choose not to comply with privacy laws if the "worst they get is a confidential letter" from an attorney general's office, said Maureen Mahoney, a policy analyst at Consumer Reports, adding that those offices are often short of resources.

Florida last month came close but ultimately failed to pass consumer data privacy legislation. In Washington, lawmakers remained divided over the best enforcement scheme for the state's bill.

Colorado's legislative session is scheduled to end June 12.

"This bill was pretty quiet for a while," Stauss said. "Now two House sponsors have been added—a Republican and a Democrat—and it looks like it has legs."

If passed in its current form, the Colorado law would take effect July 1, 2023.

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