

The Washington Privacy Act
[Senate Bill 5376](#)
Introduced Jan. 17, 2019

Frequently Asked Questions

1. To whom does the act apply?

- Any company that controls or processes data of more than 100,000 Washington residents.
- Any company that is a data broker and has data of more than 25,000 Washington residents.

2. Does selling advertising make a company a data broker?

No. A data broker is a company that derives 50 percent of its revenue from the brokered sale of personal information. Regular advertising or marketing activities don't qualify.

3. Does the act cover small businesses?

Only companies that have the personal data of more than 100,000 Washington residents – or that are data brokers and have the data of more than 25,000 residents – are covered. Revenue, number of employees and other such factors are irrelevant.

4. Does the act apply to health care companies and banks?

The act excludes data that is already federally regulated, such as health care data (under HIPAA) or financial data (under Gramm-Leach-Bliley). If an institution has other personal data and meets the thresholds above, then it is covered.

5. When does the Act go into effect?

Dec. 31, 2020.

6. Is the act the same as the European privacy law known as GDPR?

The Washington Privacy Act incorporates concepts and some definitions from the GDPR. A company that already complies with GDPR requirements is likely to be compliant with the Washington Privacy Act. Some American companies have already said they will extend GDPR protections to American residents with whom they do business.

7. Who will interpret the Washington Privacy Act?

The act is a Washington State Law, subject to normal review. Washington's Attorney General has enforcement powers under the Act.

8. Why didn't you just copy the California Consumer Privacy Act?

Passed last year, the California act has good consumer protection provisions. But we wanted to have legal mechanisms that go to the heart of a consumer's ability to control data, such as control of "further processing" of data. This concept needs to be broad enough to cover many different kinds of situations.

9. Why doesn't the Washington act provide a private right of action?

Enforcement by the Attorney General, as with other consumer protection actions, will create strong compliance with the Act's terms.

10. Will federal privacy law preempt the Washington Privacy Act?

The act is grounded in Washington's Constitution and our state's Consumer Protection Act. Like 49 other states, we also have a data breach notification law. We have the obligation to protect the rights of Washington residents and we believe that our law would survive a preemption challenge.