

The MCPDA (effective October 1, 2024) governs entities that control (“controllers”) or process (“processors”) and, as applicable, sell, the personal data of Montana residents, other than in the employment or business-to-business contexts (“consumers”). It also grants Montana residents certain rights with respect to their personal data.

Applicability

The MCPDA applies to persons that conduct business in Montana or produce products or services that are targeted to consumers who are residents of the state, and who either:

- Control or process the personal data of at least **50,000** consumers per calendar year (excluding personal data controlled or processed solely for the purpose of completing a payment transaction), or
- Derive over **25%** of their gross revenue from the sale of personal data and control or process the personal data at least **25,000** consumers per calendar year.

Practical Application for Businesses

Consumer Rights:

- (1) **Right to Access:** the right to confirm whether a controller is processing personal data and access such data
- (2) **Right to Correct:** the right to correct inaccuracies in the consumer’s personal data
- (3) **Right to Delete:** the right to delete personal data concerning the consumer.
- (4) **Right to Data Portability:** the right to obtain the personal data in a portable, and, to the extent practicable, readily usable format that allows the consumer to transmit the data to another entity without hindrance, where processing is by automated means.
- (5) **Right to Opt-out:** the right to opt out of (i) the sale of personal data; (ii) the processing of personal data for targeted advertising; and (iii) certain profiling.

Controller Obligations:

- Publish a privacy notice that contains requisite details and is reasonably accessible, clear, and meaningful.
- Provide consumers with methods to exercise their rights.
- Act on consumer requests within **45 days**; provide notice of extensions and the appeals process as necessary.
- Before processing sensitive data, obtain the necessary consumer consent, including from parents/legal guardians if a consumer is under age 13.
- Conduct and document an impact assessment for each processing activity that poses a “heightened risk of harm” to the consumer (e.g., selling personal data, processing sensitive data, or targeted advertising or profiling with certain foreseeable risks).
- Enter into binding data processing agreements with requisite limitations for third-party processors.

Recommendations for Controllers:

- Regularly update data maps to detail personal data collection, including sensitive data and targeted advertising.
- Train employees how to handle consumer inquiries and requests.
- Maintain clear and executable data retention policies and procedures.

Penalties:

- The Montana Attorney General has the exclusive enforcement authority.
- There is a 60-day cure period to correct violations following notice from the Montana Attorney General. This right to cure ends on April 1, 2026.
- The MCPDA does not specify a fine amount.