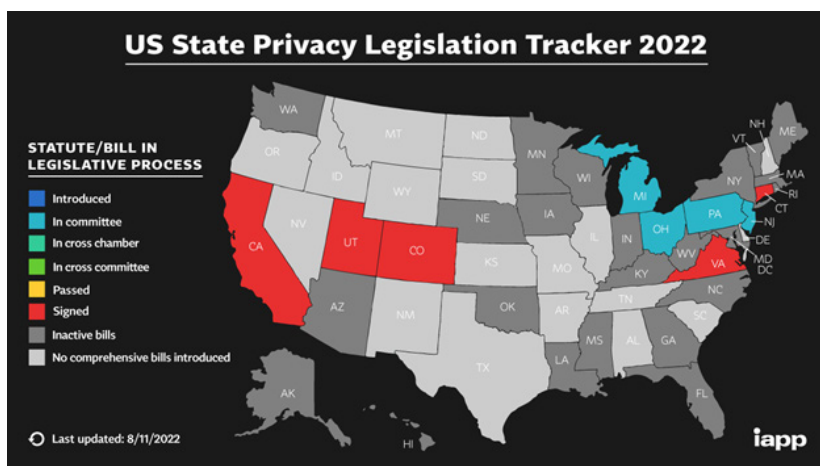


## NAVIGATING THE PATCHWORK OF DATA PRIVACY LAWS

For years, states have attempted to address data privacy, but the issue is so complex—and sweeping in its potential impact—a state-by-state solution creates more problems than it solves.

Almost by definition, the digital information legislatures are seeking to regulate exists outside of a specific geographic construct. That is, to engage in commerce that involves data, companies are virtually guaranteed to operate across state lines. A patchwork approach to data privacy laws would not only be costly and burdensome to businesses, it likely would not accomplish what its proponents seek.



Nonetheless, to date, five states have enacted comprehensive data privacy laws—California, Colorado, Connecticut, Utah and Virginia—and some 23 states (including Oklahoma) have had legislation advance at least part of the way through the legislative process.

As businesses have spoken out about the danger and costliness of the state-by-state approach, many have begun to recognize a single, national standard for protecting consumer data is more appropriate.

The American Data Privacy Protection Act (ADPPA), H.R. 8152, was introduced on July 20, 2022, along with a mark-up of the bill in the U.S. House Energy and Commerce Committee, where amendments to it passed 53-2. If the bill is heard and passed on the U.S. House floor, it will then repeat the process in the U.S. Senate.

The bill relies on the Federal Trade Commission (FTC) to fill in some of the gaps Congress felt would be better developed through rulemaking. Although restrictive, it provides multi-state companies with a single point of reference

for data privacy practices. A weakness in the bill allows states to legislate and enforce data privacy legislation the bill does not speak to, like regulations around genetic material, for example.

The ADPPA defines any covered entity as one that collects, processes or transfers covered data and is subject to the FTC, inclusive of nonprofit organizations and telecommunication common carriers. It creates stricter regulations for large scale data holders and sensitive data, while providing exemptions for smaller firms.

Most businesses will be impacted by data privacy-related legislation, whether passed on a state or federal level, so it is vital to understand the components of the regulations proposed and the potential effects it may have on your business.