

PRIVACY & DATA ETHICS

Privacy Brief

Florida Digital Bill of Rights

April 24, 2024

- The bill will go into effect July 1, 2024
- The bill is not considered “comprehensive privacy legislation”
- Acxiom has decided to limit the output of “sensitive” data related to Florida residents

On June 6, 2023, Florida Gov. Ron DeSantis signed into law [SB 262](#), otherwise known as the “Florida Digital Bill of Rights” (‘SB262’). SB262, which takes effect July 1, 2024, applies to for-profit businesses that (1) conduct business in Florida or produce a product or service used by Florida residents, and (2) process or engage in the sale of personal data, except in a commercial or employment context. The law is unique as the category of businesses it applies to is significantly narrower than in most privacy statutes other states have recently passed. In particular, a “controller” under Florida law is a business that:

- (1) is for profit, conducts business in Florida, and directly or indirectly collects personal data about “consumers”
- (2) alone or jointly determines the purposes and means of processing personal data about consumers
- (3) has an annual gross revenue exceeding \$1 billion

and

- (a) derives at least 50% of its global gross revenue from selling online ads, including providing targeted advertising; or
- (b) operates a consumer smart speaker and voice command component service with an integrated virtual assistant connected to a cloud-computing service that uses hands-free verbal activation (unless the smart speaker and voice command service is a motor vehicle speaker or device that is operated by a motor vehicle manufacturer or its affiliates/subsidiaries); or
- (c) operates an app store or digital distribution platform offering at least 250,000 different software applications for download and installation by consumers.

Due to the high revenue threshold and other requirements for a business to be a controller, SB262’s obligations will likely not apply to most businesses. However, the controller obligations are similar to previously passed comprehensive state privacy laws including consumer rights to access, correction, deletion, and portability, required data protection impact assessments, requirements for processing deidentified and pseudonymous data, and user opt-outs for targeted advertising, data sales, or profiling in furtherance of certain legal decisions.

Importantly, a key provision in SB262 prohibits any sale of sensitive data without a consumer’s opt-in consent when a business is: (1) organized or operated for the profit or financial benefit of its

For questions on this brief, please contact the Acxiom Global Data Ethics and Privacy Team at DataEthics@acxiom.com.

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shareholders or owners; (2) conducts business in Florida; and (3) collects personal data about consumers, or is the entity on behalf of which such information is collected. Sensitive data includes personal data revealing an individual's racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status, genetic or biometric data processed for the purpose of uniquely identifying an individual, personal data collected from a known child, and precise geolocation (1750 feet. In other words, the prohibition against selling sensitive personal information related to Florida residents is not limited to the definition of "controller" under the statute.

Impact to Acxiom and its Clients

The Acxiom Privacy Team has assessed the likely impact SB262 will have on our data products, data suppliers, distribution partners, and clients. Due to the scope under SB262, certain Acxiom data suppliers and clients may be affected by the law. Also, there is a prohibition against selling sensitive data separate from the controller obligations set forth in the law. Although Acxiom arguably does not meet the definition of "controller" in the Florida law, it is possible Acxiom would be subject to the sensitive data provision. Due to the prohibition on selling sensitive data without prior consumer consent, Acxiom has decided to filter sensitive data elements related to Florida residents ahead of the July 1, 2024, effective date.