SmartSuite

Framework / Privacy / Global Privacy Regulations

Texas Data Privacy and Security Act (HB 4, 2023), Texas Business and Commerce Code chapter 541

The Texas Data Privacy and Security Act (chapter 541) gives Texans privacy rights and binds every non-small business processing their data; Attorney General enforcement since July 1, 2024.



What it is

The Texas Data Privacy and Security Act (TDPSA, House Bill 4 of 2023, Texas Business and Commerce Code chapter 541) is the Texas consumer privacy law that has applied since July 1, 2024 to any person that conducts business in Texas or produces a product or service consumed by Texas residents, processes or engages in the sale of personal data, and is not a small business as defined by the U.S. Small Business Administration (Section 541.002(a)). There is no consumer-count or revenue threshold; even an excluded small business may not sell sensitive data without prior consent (Section 541.107).

At a glance

PUBLISHER
Texas Legislature; enforced by the Texas Attorney General

TYPE
Regulation

VERSION
HB 4 (2023; Acts 2023, 88th Legislature, R.S., chapter 995), Business and Commerce Code chapter 541

EFFECTIVE
July 1, 2024 (Section 541.055(e) authorized agents and opt-out signals January 1, 2025)

DOMAIN
Privacy

FAMILY
Global Privacy Regulations

REGION
Texas

ADOPTION MODEL
Regulatory Compliance

IMPLEMENTATION COMPLEXITY
Medium

Source: statutes.capitol.texas.gov/Docs/BC/htm/BC.541.htm

Why it matters

- **A size test, not a number** Applicability turns on the U.S. Small Business Administration's definition of a small business (Section 541.002(a)(3)); state agencies, GLBA financial institutions, HIPAA entities, nonprofits, institutions of higher education and electric utilities are excluded (Section 541.002(b)).
- **Two prescribed sentences** A controller that sells sensitive data must post "NOTICE: We may sell your sensitive personal data." and a seller of biometric data "NOTICE: We may sell your biometric personal data." in the same place and manner as the privacy notice (Section 541.102(b) and (c)).
- **Dark patterns are not consent** Consent is a clear affirmative act and excludes acceptance of general terms, hovering, muting, pausing or closing content, and agreement obtained through a dark pattern, defined to include any practice the FTC calls one (Section 541.001(6) and (10)).
- **A cure period that stays** Before suing, the Attorney General gives 30 days' written notice naming the provisions; no action lies if the person cures and states in writing that it cured, notified the consumer, documented the cure and changed internal policies (Section 541.154).

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How SmartSuite supports TDPSA

Applicability Decision Record

Document the Section 541.002 test, the SBA size determination, any 541.002(b) exclusion and the 541.003 exempt data streams, with the date and the evidence reviewed.

Request Intake with Two Methods

Log requests from each Section 541.055 channel with authentication, the 45-day deadline and extension, the twice-yearly free count, agent and signal opt-outs, and the 60-day appeal response.

Notice and NOTICE Statement Control

Keep the Section 541.102 notice, the sensitive and biometric sale statements and the Section 541.103 disclosure as versioned documents tied to the data inventory that proves them.

Data Protection Assessment File

Record each Section 541.105 assessment by processing activity with benefits, risks, safeguards and approvals, ready to produce under a Section 541.153 demand.

Processor Contracts and Assessor Reports

Record each processor's Section 541.104(b) contract terms, subcontractor contracts, audit rights or independent assessor reports and Chapter 521 breach assistance in Third Party Risk Management.

Cure-Period Response Kit

Manage a Section 541.154 notice as a case in Compliance Management: the cited provisions, the cure actions, consumer notification, supporting documentation and policy changes, all within 30 days.

Common framework mappings

CCPA/CPRA | CIS Controls v8.1 | GDPR | HIPAA | ISO 27001:2022 | ISO 27701 | NIST CSF 2.0 | NIST Privacy Framework v1.0 | NIST 800-53 Rev.5 | SOC 2 | Tex. Bus. & Com. Code Ch. 521

Official resources

Texas Data Privacy and Security Act — Texas Attorney General Overview

Provides an official summary of the Act's consumer rights, controller obligations, enforcement, and compliance obligations.

texasattorneygeneral.gov/consumer-protection/file-consumer-complaint/consumer-privacy-rights/texas-data-privacy-and-security-act

Texas Business & Commerce Code, Chapter 541 — Full Statutory Text

Defines the legal requirements, definitions, consumer rights, controller and processor duties, exemptions, enforcement provisions, and penalties.

statutes.capitol.texas.gov/Docs/BC/pdf/BC.541.pdf

HB 4 (2023), enrolled text

The enrolled Texas Data Privacy and Security Act as passed by the 88th Legislature, with the July 1, 2024 and January 1, 2025 effective-date provisions.

capitol.texas.gov/tlodocs/88R/billtext/html/HB00004F.htm

Texas Data Broker Act — Office of the Attorney General

Describes official requirements for entities defined as data brokers, including registration, disclosures, security obligations, and enforcement authority.

oag.state.tx.us/consumer-protection/file-consumer-complaint/consumer-privacy-rights/texas-data-broker-act

Frequently asked questions

Who must comply with the Texas Data Privacy and Security Act?

Section 541.002(a) applies chapter 541 to any person that conducts business in Texas or produces a product or service consumed by Texas residents, processes or engages in the sale of personal data, and is not a small business as defined by the U.S. Small Business Administration. There are no consumer-count or revenue thresholds. A small business is still barred from selling sensitive data without prior consent (Section 541.107). State agencies, GLBA financial institutions, HIPAA covered entities and business associates, nonprofits, institutions of higher education and electric utilities are excluded (Section 541.002(b)).

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What rights do Texas consumers have under the TDPSA, and how fast must a controller respond?

Section 541.051 gives an authenticated consumer the right to confirm processing and access the data, correct inaccuracies, delete data provided by or obtained about them, obtain a portable copy of data they provided in digital form, and opt out of targeted advertising, the sale of personal data and profiling for decisions with legal or similarly significant effects. Section 541.052 requires an answer within 45 days, with one 45-day extension on notice of the reason, free at least twice a year; Section 541.053 requires a written appeal decision within 60 days with a link to the Attorney General's complaint mechanism.

What must a TDPSA privacy notice contain?

Section 541.102(a) requires a reasonably accessible and clear notice listing the categories of personal data processed including any sensitive data, the purposes, how consumers exercise their rights and appeal, the categories shared with third parties, the categories of third parties, and the request methods required by Section 541.055. A controller that sells sensitive data must post the statement "NOTICE: We may sell your sensitive personal data." and a seller of biometric data "NOTICE: We may sell your biometric personal data." in the same location and manner (Section 541.102(b) and (c)). Sales and targeted advertising must be clearly disclosed with the opt-out (Section 541.103).

When does the TDPSA require a data protection assessment, and who can see it?

Section 541.105(a) requires a documented assessment for processing for targeted advertising, the sale of personal data, profiling that presents a reasonably foreseeable risk of unfair treatment, injury, intrusion or other substantial injury, processing of sensitive data, and any processing with a heightened risk of harm. The assessment weighs benefits against risks as mitigated by safeguards. The Attorney General may request it under a civil investigative demand (Section 541.153(b)); it is confidential and exempt from public inspection, and producing it does not waive privilege. HB 4 section 4 limits the duty to processing after July 1, 2024.

How is the TDPSA enforced, and is there a cure period?

The Attorney General has exclusive authority (Section 541.151) and there is no private right of action (Section 541.156). Before suing, the Attorney General must give written notice at least 30 days before the action identifying the provisions at issue; no action may be brought if within those 30 days the person cures the violation and provides a written statement that it cured it, notified the consumer where contact details were available, supplied supporting documentation and changed internal policies as needed (Section 541.154). A violation after the cure period, or a breach of that statement, carries civil penalties capped at $7,500 for each violation plus injunctive relief and the Attorney General's fees (Section 541.155).

License included / downloadable: Yes Business and Commerce Code chapter 541 is free to read in the Texas Statutes and as the enrolled HB 4 on Texas Legislature Online; the Attorney General's site carries the consumer rights summary and complaint mechanism.

Full framework page and mappings: smartsuite.com/frameworks/us-texas-data-privacy-and-security-act-tdpsa