# Moving Toward a Comprehensive Federal Data Privacy Law

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## I. Introduction

Currently, the United States does not have a single, comprehensive privacy law.[1] Instead, there are a number of sector-specific federal privacy laws.[2] While these laws offer consumers some level of protection, they lack uniformity.[3] The sectors with specific data privacy laws or regulations are financial services, healthcare, telecommunications, and education.[4] Among the sector-specific laws, there are significant differences in protections offered, enforcement mechanisms, and consumer rights.[5] Currently, these gaps are filled by Section 5 of the Federal Trade Commission Act, however, this is law is not specific to data privacy.[6]

In addition to the patchwork of federal privacy laws, states have started enacting their own data protection laws.[7] California was the first state to pass a comprehensive data privacy law, enacting the California Consumer Privacy Act (CCPA) in 2018.[8] Since the enactment of the CCPA, 18 states have passed their own data privacy laws (including Colorado, Virginia, Connecticut, and Texas).[9] While these comprehensive state-specific laws largely provide similar consumer rights and impose similar business obligations, there are still significant differences.[10] For example, each state has its own definition of "sensitive information," and consumer rights vary state-by-state.[11] Inconsistencies between these individual state laws provide operational hurdles for businesses and leave individuals with unequal protection.[12]

## II. The American Data Privacy and Protection Act

The current system of sector-specific federal laws and comprehensive state laws creates challenges for both businesses and individuals.[13] While not a perfect solution, the American Data Privacy and Protection Act (ADPPA) is a promising start to resolving the issues created by our current system.[14] In June 2022, the ADPPA was introduced by the House Energy and Commerce

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[1] Emily Stackhouse Taetzsch, *Privacy Purgatory: Why the United States Needs a Comprehensive Federal Data Privacy Law*, 50 J. LEGIS. 121, 129 (2024).
[2] Lydia Rudden, *Fragmented Data Privacy Laws: Time for Federal Legislation*, 2025 B.C. INTELL. PROP. & TECH. F. 1, 4 (2025).
[3] Suzanne C. Bernstein, *Consumer Data Protection and Privacy: A Proposal for a New Law and an Independent Agency*, 83 U. PITT. L. REV. 1, 8 (2022).
[4] *Id.* at 9.
[5] Andrew P. Quay, *Desperation for Legislation: The Need for the American Data Privacy and Protection Act*, 41 WIS. INT'L L.J. 707, 718 (2024).
[6] Bernstein, *supra* note 3, at 10–11.
[7] Müge Fazlioglu, *US State Comprehensive Privacy Laws Report*, IAPP (Oct. 2025) https://iapp.org/resources/article/us-state-privacy-laws-overview/ [https://perma.cc/8XDX-C9HZ].
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] Rudden, *supra* note 2, at 8.
[13] *Id.* at 4.
[14] *Id.* at 15.

Committee, in response to growing consumer needs and business challenges.[15] The ADPPA is intended to provide foundational consumer data privacy rights and establish strong oversight mechanisms and meaningful enforcement.[16] The ADPPA applies to "any entity or person that alone or jointly determines the purpose and method of collecting, processing, or transferring data."[17] The Act covers data or information that identifies or is linked or reasonably linkable to an individual or device, which includes information such as cookies or IP addresses.[18] The ADPPA also separately defines "sensitive covered data," imposing specific rules for information that falls under the definition, including Social Security Numbers, credit card numbers, or precise geolocation information.[19] While it may sound like a perfect law, there are two main obstacles preventing the enactment of the ADPPA: the inclusion of a preemption clause and a private right of action (PROA) against companies that violate the law.[20]

### a. The Preemption Issue

Preemption of state law is a highly contested partisan issue in the debate about a comprehensive federal privacy law.[21] The debate centers on whether the federal law will act as a baseline minimum standard while still allowing states to create laws providing greater consumer privacy protections, or whether the federal law will take the place of all state laws.[22] On one side of the debate, Republicans (generally) and the business community are in favor of federal preemption of state privacy laws because compliance with 50 different state laws could be expensive and challenging, if not technically impossible.[23] On the other side of the debate, Democrats (generally) and consumer advocates argue that a preemption clause would inhibit states' abilities to innovate and provide better protections than federal law. Further, consumer advocates point to federal laws like HIPAA, which allows stronger state laws to remain in force but creates a federal baseline standard.[24]

### b. The Private Right of Action Issue

Whether consumers should be entitled to a PROA for violations of federal law is another critical debate with partisan lines.[25] In this debate, Democrats and consumer advocates tend to be in favor of permitting a PROA, while Republicans and the business community tend to disfavor a PROA.[26] Consumer advocates argue that a PROA is crucial because private litigation may be a consumer's only hope for enforcement in light of the limited resources state and federal agencies

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[15] Lauren A. Di Lella, *Accept All Cookies: Opting-in to A Comprehensive Federal Data Privacy Framework and Opting-Out of A Disparate State Regulatory Regime*, 68 VILL. L. REV. 511, 535 (2023).
[16] Quay, *supra* note 5, at 713.
[17] *Id.* at 714.
[18] Di Lella, *supra* note 15.
[19] *Id.* at 535–36.
[20] Rudden, *supra* note 2, at 15.
[21] Kirk J. Nahra, *The Past, Present, and Future of U.S. Privacy Law*, 51 SETON HALL L. REV. 1549, 1555 (2021).
[22] *Id.*
[23] Robert Gellman, *The long and difficult road to a U.S. privacy law: Part 2*, IAPP (Aug. 8, 2018), https://iapp.org/news/a/the-long-and-difficult-road-to-a-u-s-privacy-law-part-2/ [https://perma.cc/XS6S-LTTU].
[24] *Id.*
[25] Nahra, *supra* note 20.
[26] *Id.*

have.[27] Further, class action lawsuits are crucial because damages potentially available in a lawsuit with a single plaintiff may be insufficient to support the cost of litigation.[28] On the other hand, opponents worry that the inclusion of a PROA would induce frivolous litigation and increase the potential for class action lawsuits that would open businesses up to liability for damages, regardless of the claim's merits.[29]

## III. A Proposed Solution: Modify the ADPPA

The ADPPA provides a solid foundation for a federal comprehensive privacy law, surpassing all of its predecessors in the realm.[30] Importantly, the Act had bipartisan support when it was introduced and deserves serious consideration.[31] The two major concerns preventing the law from progressing are the preemption clause and the inclusion of a PROA.[32] To address these concerns, Congress could modify the ADPPA.[33] One compromise that could be reached on the preemption issue is to make preemption prospective only, covering new state laws but allowing existing laws like the CCPA to remain in force.[34] Another possible compromise could be to make federal preemption time limited.[35] For example, a comprehensive federal law could preempt existing state law for a specified number of years, after which time states could enact additional legislation to cover any gaps or shortcomings identified.[36] Compromise on a PROA will also likely be necessary. One compromise would be to allow state attorneys general to enforce federal privacy law.[37] Another compromise could be allowing some class actions but imposing procedural or other barriers, or by placing limits on recoverable damages.[38] Implementing modifications to the preemption and PROA clauses would result in a law that balance the interests of businesses and individuals, resulting in better consumer protection without overcomplicating compliance for corporations.[39]

## IV. Conclusion

In conclusion, the current patchwork of federal regulations and individual state privacy laws creates real hardship for businesses and consumers.[40] A comprehensive federal privacy law has the ability to balance the competing interests between businesses and consumers, and the effectiveness of such a law hinges on this balancing of interests.[41] Modification of the ADPPA through a compromise on the preemption clause and the inclusion of a PROA could accomplish this goal.[42]

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[27] Gellman, *supra* note 22.
[28] *Id.*
[29] Di Lella, *supra* note 15, at 549.
[30] Quay, *supra* note 5, at 722.
[31] Stackhouse Taetzsch, *supra* note 1, at 134.
[32] Rudden, *supra* note 2, at 15.
[33] *Id.*
[34] Gellman, *supra* note 23.
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] Rudden, *supra* note 2, at 18.
[40] *Id.* at 17.
[41] *Id.*
[42] *Id.*

While modification to the ADPPA is certainly not the only solution to the comprehensive federal privacy law debate, the bipartisan support the Act received at introduction is a hopeful sign that it is a feasible solution.[43]

[43] Di Lella, *supra* note 15, at 550.