

MAY 2024

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 **TEXAS Law**
The University of Texas at Austin
School of Law

DATA RISKS FOR SMALL TO MEDIUM BUSINESS AND START-UPS

Two Truths and a Lie, Privacy Style

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1

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Agenda

Introductions

State Privacy Landscape

Two Truths and a Lie, Privacy Style

Key Takeaways

2

Introductions

Ashley Fischer



Ashley Fischer is the General Counsel for Tiff's Treats, an ecommerce delivery chain headquartered in Austin, Texas. Ashley is licensed to practice law in Texas and Oregon and is CIPP/US certified. Prior to joining Tiff's Treats, Ashley worked in-house at H-E-B, a grocery retail company, Marathon Petroleum, a refining, logistics, and marketing company, and Sirius Computer Solutions, a technology value added reseller. She got her start in law by working as outside counsel in a general practice firm. Ashley graduated from Texas A&M University, College Station in 2005 and St. Mary's University School of Law in 2009.

Rachel Marmor

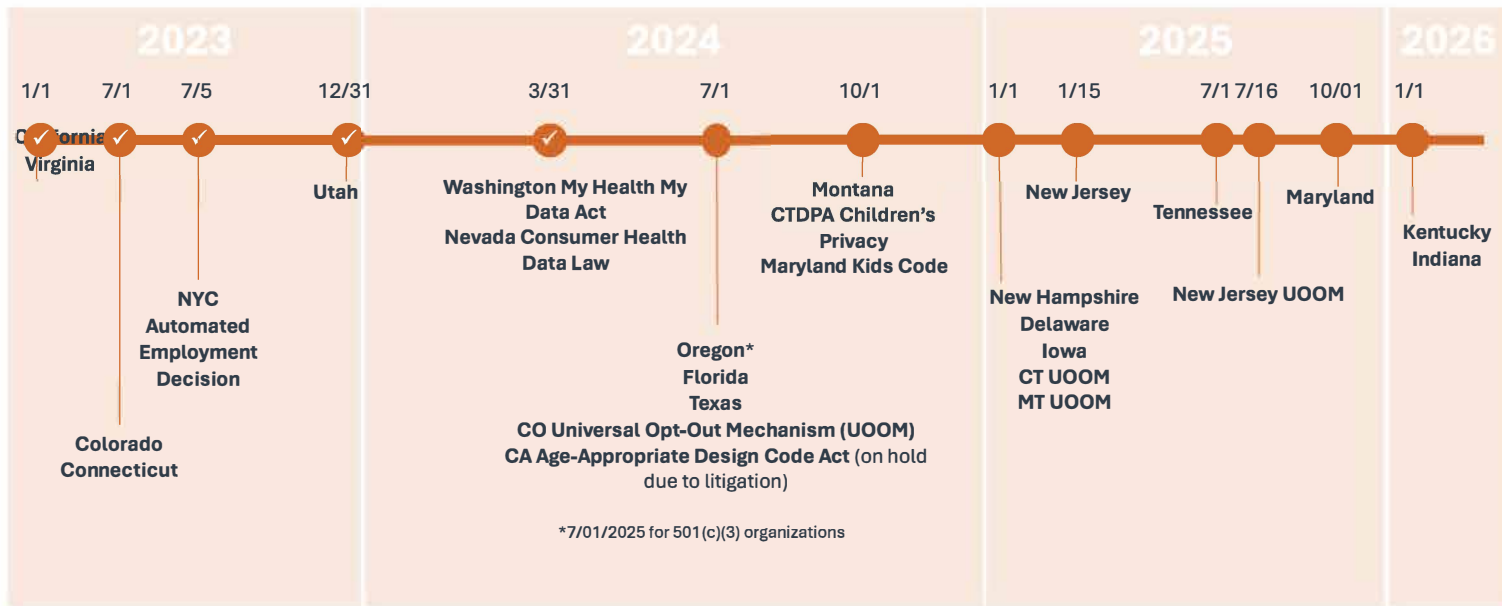


Rachel Marmor is a partner in Holland & Knight's Boston office, where she advises clients on navigating the complex web of global laws to develop enterprise privacy and AI governance programs and risk-adjusted solutions for data-driven products. Rachel partners with clients to achieve successful product launches through early-stage business guidance and negotiation of complex data partnerships. Rachel also leverages her prior work as an in-house counsel at a global financial institution to help clients build defensible, scalable processes for mitigating information risk and implement best-in-class data management practices.

State Privacy Law Landscape

	CA	CO	CT	DE	FL	IN	IA	KY	MD	MT	NE	NH	NJ	OR	TN	TX	UT	VA
Effective Date	1/1/2020 (amended 1/1/2023)	7/1/2023	7/1/2023	1/1/2025	7/1/2024	1/1/2026	1/1/2025	1/1/2026	10/1/2025	10/1/2024	1/1/2025	1/1/2025	1/16/2025	7/1/2024	7/1/2025	7/1/2024	12/31/2023	1/1/2023
Private Right of Action	✓ Data breach only	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Consumer Notice	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Website Notice for Sale of Sensitive Data or Biometric Info.	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗	✗
Consumer Rights	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Opt-In Default for Sensitive Data	Opt-out	✓	✓	✓	✓	✓	Opt-out	✓	✓	✓	✓	✓	✓	✓	✓	✓	Opt-out	✓
Employee and B2B Contact Rights	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Data Governance Requirements	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Vendor Contract Requirements	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

State Privacy Law Landscape



State Privacy Law Landscape

What do new state privacy laws require?

Consumer-Facing Requirements

- Comprehensive and accurate privacy disclosures
- Mechanisms to submit consumer requests
- One-stop opt-out of “sales” and targeted advertising (requires cookie consent management)
- Opt-in to sales and targeted advertising for children
- Honoring of user-enabled browser controls
- Access, deletion, correction, and data portability rights
- Control over sensitive personal information
- Opt-out of automated decisionmaking that produces legal or similarly significant effects.

Data Management Requirements

- Data minimization (incl. timely disposal of data)
- Purpose limitation
- Privacy impact assessments
- Reasonable security
- Specific language in contracts for data sharing

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Title search: Privacy Concerns and Data/Legal Risks for Small to Medium Business and Start-Ups

Also available as part of the eCourse

[Hooked on CLE: September 2024](#)

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