



Preparing for the MA Data Privacy Law

Statute and Regulations are Effective January 1, 2010

The Commonwealth of Massachusetts has joined the many other states in enacting a law that protects its residents from improper release of private data. The law and subsequent explanatory regulation identifies the data that must be **kept private**, establishes **standards of due care**, and **prescribes penalties** for failing to act properly.

The statute is Chapter 93 H of Massachusetts General Laws, enacted by the state legislature and signed into law on August 4, 2007. Its provisions were initially scheduled to go into effect January 1, 2009, but that date has now been pushed to **January 1, 2010**. The sponsoring agency is the Office of Consumer Affairs and Business Regulation (OCABR)

Commonwealth of Massachusetts Regulation (201 CMR 17.00) has been implemented to guide the response and enforcement of the law. This regulation establishes the scope of the law and prescribes **twenty specific areas** that organizations must address to be considered in compliance. Twelve of the areas deal with privacy in general, and eight deal specifically with electronic data privacy.

Minimal Requirements of the Regulation

- Designate an individual as a Data Security Coordinator who will administer data privacy policies;
- Create a written information security policy that defines policies and procedures governing the protection of the private data;
- Train all employees who come in contact with private data;
- Monitor compliance with the policy annually or as business needs dictate.
- Conduct a privacy risk assessment that takes into consideration the extent of protection that must be implemented to assure private data is not misused. That risk assessment should look at transaction or data volume, frequency, financial value, handling environment and threat potential.
- Data managed by Third Party Providers ("TPP") is not immune from this statute and you must verify that each TPP is performing all duties in compliance with this regulation.
- Breaches of privacy must be recognized and reported to the individual(s) whose data privacy has been compromised, Massachusetts Attorney General's office and the Office of Consumer Affairs and Business Regulation in a timely manner.
- If a data privacy breach occurs, you must demonstrate an effective plan to prevent future occurrences and mitigate similar vulnerabilities.

Create a written policy for guiding compliance.

Conduct appropriate employee training and designate a Data Security Coordinator

Implement technology controls to protect electronic records

Respond quickly and appropriately when a privacy breach is suspected

Scope of the Statute:

The Privacy Law is designed to protect Massachusetts residents from inappropriate disclosure or use of their private information. The private information is defined as the First Name (or initial) and Last Name in conjunction with any or all of the following:

- Social security number,
- Drivers license number,
- State issued identification number,
- Financial institution account number,
- Credit or Debit card number with access code.

It applies to any organization or person that owns, licenses, stores or maintains the above personal information pertaining to a Massachusetts resident. Data that is already in the public domain is not covered by this statute.

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Data Privacy Protection

How We Can Help

The Regulation indicates that this minimum response should cost small organizations no more than \$3,000. Our Experts can work within this budget.

We can work on behalf of our clients who have customers, employees, business partners, etc. that are residents of the Commonwealth of Massachusetts. Because the provisions of this law appear to be at least as stringent of any of the other state privacy laws, we recommend it be implemented for all data irrespective of the subject's address of residence. As a standard service, Secure IT Experts will provide you with:

1. A Written Information Security Policy designed specifically for their size, complexity and industry. This policy will be aligned with industry accepted practices and will fulfill the test of reasonability implied in the regulation.
2. A Functional Position Description for the person designated as the Data Security Coordinator, and if necessary, help screen and recommend appropriate candidate(s).
3. A practical and verifiable Response to each of the twenty elements of the Regulation.
4. A Training Program for all designated employees, business partners or associates.
5. Template Letters for reporting breaches to the resident, the Attorney General and the Office of Consumer Affairs.
6. Procedure for conducting an Annual Validation to assure that the program continues to meet industry standards.

Optionally, as an enhanced service, we can

7. Specify, help select and implement technology including Encryption, Secure Networking, Passwords, and Anti-virus Software to assure you meet or exceed industry standards.
8. Conduct a Risk Assessment directed toward the Data Privacy requirements that identifies any **People, Process, physical Plant or Technology** that present a vulnerability to the threats to privacy breach.
9. Assist in identifying the best ways to mitigate vulnerabilities that prevents the exploitation of threats that may have compromised data privacy in the past.
10. Conduct an independent evaluation and exercise of your Data Privacy plan.

Why wander through the maze of yet another state data privacy regulation when you can have an Expert on your side making sure you are concentrating on what makes your organization successful?

About Secure IT Experts

Secure IT Experts takes a new approach to risk management. We have assembled a team of world-class experts in virtually every aspect of technology risk management – compliance, assessment, audit, insurance, policy, and specific technological solutions. We recognize the threats and risk businesses encounter every day. That is why this collaboration of world-class Experts has come together to provide you with cost effective solutions – learning YOUR unique challenges and assembling the right team FOR YOU. These Experts own the challenges of protecting your data and information assets from beginning to end. Security, compliance, recovery – that's what we do.....covering the full range of security posture options. Our combined decades of experience transform security problems into business solutions. You have enough to focus on in these economic times instead of worrying about a data breach. Let Secure IT Experts be the agile team that eliminates roadblocks and paves a secure path for your strategies. We have only one focus – our customers. We are about making you succeed. Let Secure IT Experts get you where you need to go and keep you out of the headlines. Contact us and let us find the right solution and the right expert for you.

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