NSBA
National Small Business Association

Issue Brief

Data Privacy Regulations

Problem:

In an increasingly digital world, governments globally at all levels are enacting internet privacy rules proving to be complex and burdensome, particularly for many small businesses.

- Under a GDPR standard, transfer of personal data from a GDPR state or country to a non-GDPR state or country is typically prohibited unless there is an exemption by equivalent privacy standards and requirements.
- These changes and are designed to provide consumers with greater transparency and control over their personal data; however, for some small businesses, these standards go beyond feasible compliance, requiring companies to make significant changes in their data processing operations.
- Following California's lead, four other large states (Colo., Conn., Utah, and Virg.) will begin enforcing new GDPR-inspired statues this year, effectively forcing a significant number of companies to consider whether to apply the rules to all users.
- While these state laws may give consumers a new layer of control over their personal information, these regulations are creating new and onerous challenges for small businesses in states moving toward GDPR rules.
- By a shift in this standard, managing personal data and keeping it secure will continue to increase for business owners, forcing businesses to consider other technological solutions to ease compliance burdens, as well as manage risk when engaging in buying and selling of personal data.
- All 50 U.S. states, as well as the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands, have enacted breach notification laws that require businesses to notify consumers if their personal information is compromised. These state data breach laws expand the definition of personal information and specifically mandate certain information security requirements to be implemented.
- Despite this aspect of uniformity across the states, the U.S. lacks national data privacy legislation, leaving small businesses alone in figuring out which laws apply to them.

Solution:

Small businesses need clear guidelines that fit the U.S. legal system, one that targets abuses, encourages innovation, and permits reasonable flexibility.

- While Congress has not yet enacted a comprehensive national privacy law, it does have a long history of passing privacy laws to protect some of the most sensitive types of personal data, such as financial and medical information and data concerning children.
- Any such legislation must consider the burden on small business—direct and indirect—and take steps to avoid stymieing innovation and competitiveness, especially during implementation.