

The Personal Information Protection Act (PIPA) Guidelines for Alberta Businesses

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Provincial Legislation is Your *Minimum* Requirement

The provincial *Personal Information Protection Act* (PIPA) came into effect January 1, 2004. All businesses are subject to PIPA, which regulates access to, and the collection, use, disclosure and protection of personal information. If a business or individual contravenes PIPA it may lead to being convicted of an offence under the Act. If convicted, fines are up to \$10,000 for individuals and up to \$100,000 for organizations. The rules within the legislation are the *minimum* requirement of businesses.

The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) also came into effect for businesses January 1, 2004 and meets requirements allowing Canadian firms to do business internationally. PIPEDA applies to all firms doing business in a province/territory that does not have its own privacy legislation. Currently, only British Columbia, Alberta and Quebec have their own privacy legislation. (see "Federal Legislation" on page 2). PIPEDA also applies to those organizations carrying out commercial activities involving personal information that crosses Alberta's borders.

The following is a brief outline of how PIPA affects your business. Personal information collected prior to January 1, 2004 does not require additional consent as long as it is only used for the purpose for which it was originally intended.

What is Personal Information?

Personal information means information about an identifiable individual and includes, but is not limited to:

- name, age, weight, height;
- home address and phone number;
- race, ethnic origin, sexual orientation;
- medical information;
- income, purchases, spending habits;
- blood type, DNA code, fingerprints;
- marital status and religion;
- education;
- employment information;
- drivers' license number;
- social insurance number; and
- videotapes of identifiable individuals.

An employee's name, title or position, phone number, address and email address is business contact information under PIPA. You can use business contact information without consent to contact an individual in his/her business capacity, but not to market unrelated products (e.g. office supplies vs. vacation properties).

What the Act Covers

Accountability: PIPA requires an organization to have a documented privacy policy that can be made available to the public upon request. The organization must also have a designated privacy officer within the business who is knowledgeable about the legislation, able to address customers' concerns and train any staff collecting, using or disclosing personal information.

Identification of Purposes: Individuals must be informed of the purpose for the collection and how the information might be used or disclosed to outside organizations. Collect, use and disclose personal information only for reasonable purposes, and only the amount and type reasonably needed to carry out that purpose.

Consent: There are three types of consent that can be used: Express Consent/Permission (Opt in); Opt out and; Implied Consent. Information of a more sensitive nature (e.g. financial information) will require stronger methods of obtaining consent (See "Types of Consent" on page 2).

Limiting Collection: Gather only the information that is necessary for the identified purposes.

Limit Use, Disclosure & Retention: Collected personal information must only be used for the purposes for which consent was given. Keep the information only as long as is necessary.

Accuracy: Information should be accurate and complete. Processes/ procedures must be put in place for persons to identify and rectify inaccuracies in their personal information.

Safeguards: Ensure that personal information is secure: locked file cabinets, electronic firewalls and limited staff access.

Openness: Privacy policies and practices should be available upon request.

Individual Access: PIPA gives individuals the right to ask an organization to provide them with access to the personal information the organization has about them

and to tell them how that information has been or is being used or disclosed.

Provide Recourse: Privacy policies should describe complaint resolution procedures.

Employee Information: Personal information and personal employee information is also covered by the

Act. An organization must have a privacy policy in place for this type of information, including information on ex-employees. The policies should inform employees of the purposes the information is being collected for, how it will be used or disclosed. For current employees and recruits, consent is not required to collect, use and disclose personal employee information.

What the Act Doesn't Cover

- A federally-regulated organization already covered by the federal *Personal Information Protection and Electronic Documents Act* (banks, airlines, telecommunications, inter-provincial transportation and radio and television broadcasting companies).
- The collection, use or disclosure of personal information solely for journalistic, artistic or literary purposes.
- An individual's own collection, use or disclosure of personal information for personal or domestic purposes (family or home activities).

Compliance Tips

- Obtain consent when collecting personal information from a customer. Consent can be obtained in person, by phone, by mail, by fax or via the Internet.
- Make sure clients fully understand how their information will be used.
- Define your reasons for collecting data as clearly and narrowly as possible.
- Limit who has access to personal information.
- Protect personal information against loss or theft: store it in a locked cabinet, use a program with limited access by other employees, use passwords on files, use an encryption program for electronic data.
- Inform customers, clients and employees that you have policies and practices for the management of personal information. Ensure these policies are readily available and are easy to understand.
- Develop a customer complaint procedure and investigate all received complaints.

TYPES OF CONSENT

Express (Opt-in): Consent must be written or verbal allowing an organization to collect and use an individual's personal information (e.g. a customer signs a form allowing you to collect, disclose and use their personal information).

Opt-out: An individual must indicate they wish to opt-out of consent (e.g. they may check a box to indicate they don't wish to be included on a mailing list).

Implied Consent: Consent is implied when an individual volunteers information and it is reasonable to assume that is appropriate for the situation (e.g. a customer volunteers their phone number and address when making a purchase for delivery).

Federal Legislation

While the provincial PIPA legislation presides over those doing business within the province, companies doing business in other provinces/territories/countries may fall under the jurisdiction of the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA). Therefore, it is important for those businesses to also be familiar with PIPEDA.

- For more information on the federal legislation, please refer to CFIB's National Privacy handout, at www.cfib-fcei.ca/english/member_assistance/alberta/158-protecting_your_business/1060-privacy_legislation.html
- or the web site for the Office of the Privacy Commissioner of Canada at www.privcom.gc.ca

Where to Get More Information

For more information or to access a guide to developing a privacy policy for small- and medium-sized business, please visit <http://pipa.alberta.ca/> or phone 780 644-PIPA (7472). Toll free within Alberta dial 310-0000 first.

You can also contact CFIB Alberta Business Resources at:

Phone: 403 444-9290

Fax: 403 261-7667

Email: msalb@cfib.ca

Toll free: 1 888 234-2232

Fax toll free: 1 877 507-6595

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