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AMENDED IN ASSEMBLY APRIL 27, 2017  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 375**

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**Introduced by Assembly Member Chau and Senator Hertzberg**  
(Coauthor: Senator Dodd)

February 9, 2017

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An act to add Title 1.81.5 (commencing with Section 1798.100) to Part 4 of Division 3 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Chau. Privacy: personal information: businesses.

The California Constitution grants a right of privacy. Existing law provides for the confidentiality of personal information in various contexts and requires a business or person that suffers a breach of security of computerized data that includes personal information, as defined, to disclose that breach, as specified.

This bill would enact the California Consumer Privacy Act of 2018. Beginning January 1, 2020, the bill would grant a consumer a right to request a business to disclose the categories and specific pieces of personal information that it collects about the consumer, the categories

of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of 3rd parties with which the information is shared. The bill would require a business to make disclosures about the information and the purposes for which it is used. The bill would grant a consumer the right to request deletion of personal information and would require the business to delete upon receipt of a verified request, as specified. The bill would grant a consumer a right to request that a business that sells the consumer's personal information, or discloses it for a business purpose, disclose the categories of information that it collects and categories of information and the identity of 3rd parties to which the information was sold or disclosed. The bill would require a business to provide this information in response to a verifiable consumer request. The bill would authorize a consumer to opt out of the sale of personal information by a business and would prohibit the business from discriminating against the consumer for exercising this right, including by charging the consumer who opts out a different price or providing the consumer a different quality of goods or services, except if the difference is reasonably related to value provided by the consumer's data. The bill would authorize businesses to offer financial incentives for collection of personal information. The bill would prohibit a business from selling the personal information of a consumer under 16 years of age, unless affirmatively authorized, as specified, to be referred to as the right to opt in. The bill would prescribe requirements for receiving, processing, and satisfying these requests from consumers. The bill would prescribe various definitions for its purposes and would define "personal information" with reference to a broad list of characteristics and behaviors, personal and commercial, as well as inferences drawn from this information. The bill would prohibit the provisions described above from restricting the ability of the business to comply with federal, state, or local laws, among other things.

The bill would provide for its enforcement by the Attorney General, as specified, and would provide a private *right of action* in connection with ~~specified security breaches: certain unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information, as defined.~~ The bill would prescribe a method for distribution of proceeds of Attorney General actions. The bill would create the Consumer Privacy Fund in the General Fund with the moneys in the fund, upon appropriation by the Legislature, to be applied to support the purposes of the bill and its enforcement. The bill

would provide for the deposit of penalty money into the fund. The bill would require the Attorney General to solicit public participation for the purpose of adopting regulations, as specified. The bill would authorize a business, service provider, or 3rd party to seek the Attorney General’s opinion on how to comply with its provisions. The bill would void a waiver of a consumer’s rights under its provisions. The bill would condition its operation on the withdrawal of a specified initiative from the ballot.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This measure shall be known and may be cited  
2 as “The California Consumer Privacy Act of 2018.”  
3 SEC. 2. The Legislature finds and declares that:  
4 (a) In 1972, California voters amended the California  
5 Constitution to include the right of privacy among the “inalienable”  
6 rights of all people. The amendment established a legal and  
7 enforceable right of privacy for every Californian. Fundamental  
8 to this right of privacy is the ability of individuals to control the  
9 use, including the sale, of their personal information.  
10 (b) Since California voters approved the right of privacy, the  
11 California Legislature has adopted specific mechanisms to  
12 safeguard Californians’ privacy, including the Online Privacy  
13 Protection Act, the Privacy Rights for California Minors in the  
14 Digital World Act, and Shine the Light, a California law intended  
15 to give Californians the ‘who, what, where, and when’ of how  
16 businesses handle consumers’ personal information.  
17 (c) At the same time, California is one of the world’s leaders in  
18 the development of new technologies and related industries. Yet  
19 the proliferation of personal information has limited Californians’  
20 ability to properly protect and safeguard their privacy. It is almost  
21 impossible to apply for a job, raise a child, drive a car, or make an  
22 appointment without sharing personal information.  
23 (d) As the role of technology and data in the every daily lives  
24 of consumers increases, there is an increase in the amount of  
25 personal information shared by consumers with businesses.  
26 California law has not kept pace with these developments and the

1 personal privacy implications surrounding the collection, use, and  
2 protection of personal information.

3 (e) Many businesses collect personal information from  
4 California consumers. They may know where a consumer lives  
5 and how many children a consumer has, how fast a consumer  
6 drives, a consumer's personality, sleep habits, biometric and health  
7 information, financial information, precise geolocation information,  
8 and social networks, to name a few categories.

9 (f) The unauthorized disclosure of personal information and the  
10 loss of privacy can have devastating effects for individuals, ranging  
11 from financial fraud, identity theft, and unnecessary costs to  
12 personal time and finances, to destruction of property, harassment,  
13 reputational damage, emotional stress, and even potential physical  
14 harm.

15 (g) In March 2018, it came to light that tens of millions of people  
16 had their personal data misused by a data mining firm called  
17 Cambridge Analytica. A series of congressional hearings  
18 highlighted that our personal information may be vulnerable to  
19 misuse when shared on the Internet. As a result, our desire for  
20 privacy controls and transparency in data practices is heightened.

21 (h) People desire privacy and more control over their  
22 information. California consumers should be able to exercise  
23 control over their personal information, and they want to be certain  
24 that there are safeguards against misuse of their personal  
25 information. It is possible for businesses both to respect consumers'  
26 privacy and provide a high level transparency to their business  
27 practices.

28 (i) Therefore, it is the intent of the Legislature to further  
29 Californians' right to privacy by giving consumers an effective  
30 way to control their personal information, by ensuring the following  
31 rights:

32 (1) The right of Californians to know what personal information  
33 is being collected about them.

34 (2) The right of Californians to know whether their personal  
35 information is sold or disclosed and to whom.

36 (3) The right of Californians to say no to the sale of personal  
37 information.

38 (4) The right of Californians to access their personal information.

39 (5) The right of Californians to equal service and price, even if  
40 they exercise their privacy rights.

1 SEC. 3. Title 1.81.5 (commencing with Section 1798.100) is  
2 added to Part 4 of Division 3 of the Civil Code, to read:

3  
4 TITLE 1.81.5. CALIFORNIA CONSUMER PRIVACY ACT  
5 OF 2018  
6

7 1798.100. (a) A consumer shall have the right to request that  
8 a business that collects a consumer's personal information disclose  
9 to that consumer the categories and specific pieces of personal  
10 information the business has collected.

11 (b) A business that collects a consumer's personal information  
12 shall, at or before the point of collection, inform consumers as to  
13 the categories of personal information to be collected and the  
14 purposes for which the categories of personal information shall be  
15 used. A business shall not collect additional categories of personal  
16 information or use personal information collected for additional  
17 purposes without providing the consumer with notice consistent  
18 with this section.

19 (c) A business shall provide the information specified in  
20 subdivision (a) to a consumer only upon receipt of a verifiable  
21 consumer request.

22 (d) A business that receives a verifiable consumer request from  
23 a consumer to access personal information shall promptly take  
24 steps to disclose and deliver, free of charge to the consumer, the  
25 personal information required by this section. The information  
26 may be delivered by mail or electronically, and if provided  
27 electronically, the information shall be in a portable and, to the  
28 extent technically feasible, in a readily useable format that allows  
29 the consumer to transmit this information to another entity without  
30 hindrance. A business may provide personal information to a  
31 consumer at any time, but shall not be required to provide personal  
32 information to a consumer more than twice in a 12-month period.

33 (e) This section shall not require a business to retain any  
34 personal information collected for a single, one-time transaction,  
35 if such information is not sold or retained by the business or to  
36 reidentify or otherwise link information that is not maintained in  
37 a manner that would be considered personal information.

38 (1) Retain any personal information collected for a single,  
39 one-time transaction, if the information is not sold or retained by  
40 the business.

1 (2) Reidentify or otherwise link any data that, in the ordinary  
2 course of business, is not maintained in a manner that would be  
3 considered personal information.

4 1798.105. (a) A consumer shall have the right to request that  
5 a business delete any personal information about the consumer  
6 which the business has collected from the consumer.

7 (b) A business that collects personal information about  
8 consumers shall disclose, pursuant to subparagraph (A) of  
9 paragraph (5) of subdivision (a) of section 1798.130, the  
10 consumer's rights to request the deletion of the consumer's  
11 personal information.

12 (c) A business that receives a verifiable request from a consumer  
13 to delete the consumer's personal information pursuant to  
14 subdivision (a) of this section shall delete the consumer's personal  
15 information from its records and direct any service providers to  
16 delete the consumer's personal information from their records.

17 (d) A business or a service provider shall not be required to  
18 comply with a consumer's request to delete the consumer's  
19 personal information if it is necessary for the business or service  
20 provider to maintain the consumer's personal information in order  
21 to:

22 (1) Complete the transaction for which the personal information  
23 was collected, provide a good or service requested by the consumer,  
24 or reasonably anticipated within the context of a business's ongoing  
25 business relationship with the consumer, or otherwise perform a  
26 contract between the business and the consumer.

27 (2) Detect security incidents, protect against malicious,  
28 deceptive, fraudulent, or illegal activity; or prosecute those  
29 responsible for that activity.

30 (3) Debug to identify and repair errors that impair existing  
31 intended functionality.

32 (4) Exercise free speech, ensure the right of another consumer  
33 to exercise his or her right of free speech, or exercise another right  
34 provided for by law.

35 (5) Comply with the California Electronic Communications  
36 Privacy Act pursuant to Chapter 3.6 (commencing with Section  
37 1546) of Title 12 of Part 2 of the Penal Code.

38 (6) Engage in public or peer-reviewed scientific, historical, or  
39 statistical research in the public interest that adheres to all other  
40 applicable ethics and privacy laws, when the businesses' deletion

1 of the information is likely to render impossible or seriously impair  
2 the achievement of such research, if the consumer has provided  
3 informed consent.

4 (7) To enable solely internal uses that are reasonably aligned  
5 with the expectations of the consumer based on the consumer's  
6 relationship with the business.

7 (8) Comply with a legal obligation.

8 (9) Otherwise use the consumer's personal information,  
9 internally, in a lawful manner that is compatible with the context  
10 in which the consumer provided the information.

11 1798.110. (a) A consumer shall have the right to request that  
12 a business that collects personal information about the consumer  
13 disclose to the consumer the following:

14 (1) The categories of personal information it has collected about  
15 that consumer.

16 (2) The categories of sources from which the personal  
17 information is collected.

18 (3) The business or commercial purpose for collecting or selling  
19 personal information.

20 (4) The categories of third parties with whom the business shares  
21 personal information.

22 (5) The specific pieces of personal information it has collected  
23 about that consumer.

24 (b) A business that collects personal information about a  
25 consumer shall disclose to the consumer, pursuant to paragraph  
26 (3) of subdivision (a) of Section 1798.130, the information  
27 specified in subdivision (a) upon receipt of a verifiable request  
28 from the consumer.

29 (c) A business that collects personal information about  
30 consumers shall disclose, pursuant to subparagraph (B) of  
31 paragraph (5) of subdivision (a) of Section 1798.130:

32 (1) The categories of personal information it has collected about  
33 that consumer.

34 (2) The categories of sources from which the personal  
35 information is collected.

36 (3) The business or commercial purpose for collecting or selling  
37 personal information.

38 (4) The categories of third parties with whom the business shares  
39 personal information.

1 (5) The specific pieces of personal information the business has  
2 collected about that consumer.

3 (d) This section does not require a business to do the following:

4 (1) Retain any personal information about a consumer collected  
5 for a single one-time transaction if, in the ordinary course of  
6 business, that information about the consumer is not retained.

7 (2) Reidentify or otherwise link any data that, in the ordinary  
8 course of business, is not maintained in a manner that would be  
9 considered personal information.

10 1798.115. (a) A consumer shall have the right to request that  
11 a business that sells the consumer’s personal information, or that  
12 discloses it for a business purpose, disclose to that consumer:

13 (1) The categories of personal information that the business  
14 collected about the consumer.

15 (2) The categories of personal information that the business sold  
16 about the consumer and the categories of third parties to whom  
17 the personal information was sold, by category or categories of  
18 personal information for each third party to whom the personal  
19 information was sold.

20 (3) The categories of personal information that the business  
21 disclosed about the consumer for a business purpose.

22 (b) A business that sells personal information about a consumer,  
23 or that discloses a consumer’s personal information for a business  
24 purpose, shall disclose, pursuant to paragraph (4) of subdivision  
25 (a) of Section 1798.130, the information specified in subdivision  
26 (a) to the consumer upon receipt of a verifiable request from the  
27 consumer.

28 (c) A business that sells consumers’ personal information, or  
29 that discloses consumers’ personal information for a business  
30 purpose, shall disclose, pursuant to subparagraph (C) of paragraph  
31 (5) of subdivision (a) of Section 1798.130:

32 (1) The category or categories of consumers’ personal  
33 information it has sold, or if the business has not sold consumers’  
34 personal information, it shall disclose that fact.

35 (2) The category or categories of consumers’ personal  
36 information it has disclosed for a business purpose, or if the  
37 business has not disclosed the consumers’ personal information  
38 for a business purpose, it shall disclose that fact.

39 (d) A third party shall not sell personal information about a  
40 consumer that has been sold to the third party by a business unless



1 the consumer has received explicit notice and is provided an  
2 opportunity to exercise the right to opt out pursuant to 1798.120.

3 1798.120. (a) A consumer shall have the right, at any time, to  
4 direct a business that sells personal information about the consumer  
5 to third parties not to sell the consumer's personal information.  
6 This right may be referred to as the right to opt out.

7 (b) A business that sells consumers' personal information to  
8 third parties shall provide notice to consumers, pursuant to  
9 subdivision (a) of Section 1798.135, that this information may be  
10 sold and that consumers have the right to opt out of the sale of  
11 their personal information.

12 (c) A business that has received direction from a consumer not  
13 to sell the consumer's personal information or, in the case of a  
14 minor consumer's personal information has not received consent  
15 to sell the minor consumer's personal information shall be  
16 prohibited, pursuant to paragraph (4) of subdivision (a) of Section  
17 1798.135, from selling the consumer's personal information after  
18 its receipt of the consumer's direction, unless the consumer  
19 subsequently provides express authorization for the sale of the  
20 consumer's personal information.

21 (d) Notwithstanding subdivision (a), a business shall not sell  
22 the personal information of consumers if the business has actual  
23 knowledge that the consumer is less than 16 years of age, unless  
24 the consumer, in the case of consumers between 13 and 16 years  
25 of age, or the consumer's parent or guardian, in the case of  
26 consumers who are less than 13 years of age, has affirmatively  
27 authorized the sale of the consumer's personal information. A  
28 business that willfully disregards the consumer's age shall be  
29 deemed to have had actual knowledge of the consumer's age. This  
30 right may be referred to as the "right to opt in."

31 1798.125. (a) (1) A business shall not discriminate against a  
32 consumer because the consumer exercised any of the consumer's  
33 rights under this title, including, but not limited to, by:

34 (A) Denying goods or services to the consumer.

35 (B) Charging different prices or rates for goods or services,  
36 including through the use of discounts or other benefits or imposing  
37 penalties.

38 (C) Providing a different level or quality of goods or services  
39 to the consumer, if the consumer exercises the consumer's rights  
40 under this title.

1 (D) Suggesting that the consumer will receive a different price  
2 or rate for goods or services or a different level or quality of goods  
3 or services.

4 (2) Nothing in this subdivision prohibits a business from  
5 charging a consumer a different price or rate, or from providing a  
6 different level or quality of goods or services to the consumer, if  
7 that difference is reasonably related to the value provided to the  
8 consumer by the consumer's data.

9 (b) (1) A business may offer financial incentives, including  
10 payments to consumers as compensation, for the collection of  
11 personal information, the sale of personal information, or the  
12 deletion of personal information. A business may also offer a  
13 different price, rate, level, or quality of goods or services to the  
14 consumer if that price or difference is directly related to the value  
15 provided to the consumer by the consumer's data.

16 (2) A business that offers any financial incentives pursuant to  
17 subdivision (a), shall notify consumers of the financial incentives  
18 pursuant to Section 1798.135.

19 (3) A business may enter a consumer into a financial incentive  
20 program only if the consumer gives the business prior opt-in  
21 consent pursuant to Section 1798.135 which clearly describes the  
22 material terms of the financial incentive program, and which may  
23 be revoked by the consumer at any time.

24 (4) A business shall not use financial incentive practices that  
25 are unjust, unreasonable, coercive, or usurious in nature.

26 1798.130. (a) In order to comply with Sections 1798.100,  
27 1798.105, 1798.110, 1798.115, and 1798.125, in a form that is  
28 reasonably accessible to consumers, a business shall:

29 (1) Make available to consumers two or more designated  
30 methods for submitting requests for information required to be  
31 disclosed pursuant to Sections 1798.110 and 1798.115, including,  
32 at a minimum, a toll-free telephone number, and if the business  
33 maintains an Internet Web site, a Web site address.

34 (2) Disclose and deliver the required information to a consumer  
35 free of charge within 45 days of receiving a verifiable request from  
36 the consumer. The business shall promptly take steps to determine  
37 whether the request is a verifiable request, but this shall not extend  
38 the business's duty to disclose and deliver the information within  
39 45 days of receipt of the consumer's request. The time period to  
40 provide the required information may be extended once by an

1 additional 45 days when reasonably necessary, provided the  
2 consumer is provided notice of the extension within the first 45-day  
3 period. The disclosure shall cover the 12-month period preceding  
4 the business's receipt of the verifiable request and shall be made  
5 in writing and delivered through the consumer's account with the  
6 business, if the consumer maintains an account with the business,  
7 or by mail or electronically at the consumer's option if the  
8 consumer does not maintain an account with the business, in a  
9 readily useable format that allows the consumer to transmit this  
10 information from one entity to another entity without hindrance.  
11 The business shall not require the consumer to create an account  
12 with the business in order to make a verifiable request.

13 (3) For purposes of subdivision (b) of Section 1798.110:

14 (A) To identify the consumer, associate the information provided  
15 by the consumer in the verifiable request to any personal  
16 information previously collected by the business about the  
17 consumer.

18 (B) Identify by category or categories the personal information  
19 collected about the consumer in the preceding 12 months by  
20 reference to the enumerated category or categories in subdivision  
21 (c) that most closely describes the personal information collected.

22 (4) For purposes of subdivision (b) of Section 1798.115:

23 (A) Identify the consumer and associate the information  
24 provided by the consumer in the verifiable request to any personal  
25 information previously collected by the business about the  
26 consumer.

27 (B) Identify by category or categories the personal information  
28 of the consumer that the business sold in the preceding 12 months  
29 by reference to the enumerated category in subdivision (c) that  
30 most closely describes the personal information, and provide  
31 ~~accurate names and contact information for the~~ *the categories of*  
32 third parties to whom the consumer's personal information was  
33 sold in the preceding 12 months by reference to the enumerated  
34 category or categories in subdivision (c) that most closely describes  
35 the personal information ~~sold for each third party.~~ *sold*. The  
36 business shall disclose the information in a list that is separate  
37 from a list generated for the purposes of subparagraph (C).

38 (C) Identify by category or categories the personal information  
39 of the consumer that the business disclosed for a business purpose  
40 in the preceding 12 months by reference to the enumerated category

1 or categories in subdivision (c) that most closely describes the  
2 personal information, and provide ~~accurate names and contact~~  
3 ~~information for the persons~~ *the categories of third parties* to whom  
4 the consumer's personal information was disclosed for a business  
5 purpose in the preceding 12 months by reference to the enumerated  
6 category or categories in subdivision (c) that most closely describes  
7 the personal information ~~disclosed for each person.~~ *disclosed.* The  
8 business shall disclose the information in a list that is separate  
9 from a list generated for the purposes of subparagraph (B).

10 (5) Disclose the following information in its online privacy  
11 policy or policies if the business has an online privacy policy or  
12 policies and in any California-specific description of consumers'  
13 privacy rights, or if the business does not maintain those policies,  
14 on its Internet Web site, and update that information at least once  
15 every 12 months:

16 (A) A description of a consumer's rights pursuant to Sections  
17 1798.110, 1798.115, and 1798.125 and one or more designated  
18 methods for submitting requests.

19 (B) For purposes of subdivision (c) of Section 1798.110, a list  
20 of the categories of personal information it has collected about  
21 consumers in the preceding 12 months by reference to the  
22 enumerated category or categories in subdivision (c) that most  
23 closely describe the personal information collected.

24 (C) For purposes of paragraphs (1) and (2) of subdivision (c)  
25 of Section 1798.115, two separate lists:

26 (i) A list of the categories of personal information it has sold  
27 about consumers in the preceding 12 months by reference to the  
28 enumerated category or categories in subdivision (c) that most  
29 closely describe the personal information sold, or if the business  
30 has not sold consumers' personal information in the preceding 12  
31 months, the business shall disclose that fact.

32 (ii) A list of the categories of personal information it has  
33 disclosed about consumers for a business purpose in the preceding  
34 12 months by reference to the enumerated category in subdivision  
35 (c) that most closely describe the personal information disclosed,  
36 or if the business has not disclosed consumers' personal  
37 information for a business purpose in the preceding 12 months,  
38 the business shall disclose that fact.

39 (6) Ensure that all individuals responsible for handling consumer  
40 inquiries about the business's privacy practices or the business's

1 compliance with this title are informed of all requirements in  
2 Sections 1798.110, 1798.115, 1798.125, and this section, and how  
3 to direct consumers to exercise their rights under those sections.

4 (7) Use any personal information collected from the consumer  
5 in connection with the business's verification of the consumer's  
6 request solely for the purposes of verification.

7 (b) A business is not obligated to provide the information  
8 required by Sections 1798.110 and 1798.115 to the same consumer  
9 more than twice in a 12-month period.

10 (c) The categories of personal information required to be  
11 disclosed pursuant to Sections 1798.110 and 1798.115 shall follow  
12 the definition of personal information in Section 1798.140.

13 1798.135. (a) A business that is required to comply with  
14 Section 1798.120 shall, in a form that is reasonably accessible to  
15 consumers:

16 (1) Provide a clear and conspicuous link on the business' Internet  
17 homepage, titled "Do Not Sell My Personal Information," to an  
18 Internet Web page that enables a consumer, or a person authorized  
19 by the consumer, to opt out of the sale of the consumer's personal  
20 information. A business shall not require a consumer to create an  
21 account in order to direct the business not to sell the consumer's  
22 personal information.

23 (2) Include a description of a consumer's rights pursuant to  
24 Section 1798.120, along with a separate link to the "Do Not Sell  
25 My Personal Information" Internet Web page in:

26 (A) Its online privacy policy or policies if the business has an  
27 online privacy policy or policies.

28 (B) Any California-specific description of consumers' privacy  
29 rights.

30 (3) Ensure that all individuals responsible for handling consumer  
31 inquiries about the business's privacy practices or the business's  
32 compliance with this title are informed of all requirements in  
33 Section 1798.120 and this section and how to direct consumers to  
34 exercise their rights under those sections.

35 (4) For consumers who exercise their right to opt out of the sale  
36 of their personal information, refrain from selling personal  
37 information collected by the business about the consumer.

38 (5) For a consumer who has opted out of the sale of the  
39 consumer's personal information, respect the consumer's decision  
40 to opt out for at least 12 months before requesting that the

1 consumer authorize the sale of the consumer’s personal  
2 information.

3 (6) Use any personal information collected from the consumer  
4 in connection with the submission of the consumer’s opt-out  
5 request solely for the purposes of complying with the opt-out  
6 request.

7 (b) Nothing in this title shall be construed to require a business  
8 to comply with the title by including the required links and text  
9 on the homepage that the business makes available to the public  
10 generally, if the business maintains a separate and additional  
11 homepage that is dedicated to California consumers and that  
12 includes the required links and text, and the business takes  
13 reasonable steps to ensure that California consumers are directed  
14 to the homepage for California consumers and not the homepage  
15 made available to the public generally.

16 (c) A consumer may authorize another person solely to opt out  
17 of the sale of the consumer’s personal information on the  
18 consumer’s behalf, and a business shall comply with an opt out  
19 request received from a person authorized by the consumer to act  
20 on the consumer’s behalf, pursuant to regulations adopted by the  
21 Attorney General.

22 1798.140. For purposes of this title:

23 (a) “Aggregate consumer information” means information that  
24 relates to a group or category of consumers, from which individual  
25 consumer identities have been removed, that is not linked or  
26 reasonably linkable to any consumer or household, including via  
27 a device. “Aggregate consumer information” does not mean one  
28 or more individual consumer records that have been deidentified.

29 (b) “Biometric information” means an individual’s  
30 physiological, biological or behavioral characteristics, including  
31 an individual’s deoxyribonucleic acid (DNA), that can be used,  
32 singly or in combination with each other or with other identifying  
33 data, to establish individual identity. Biometric information  
34 includes, but is not limited to, imagery of the iris, retina,  
35 fingerprint, face, hand, palm, vein patterns, and voice recordings,  
36 from which an identifier template, such as a faceprint, a minutiae  
37 template, or a voiceprint, can be extracted, and keystroke patterns  
38 or rhythms, gait patterns or rhythms, and sleep, health, or exercise  
39 data that contain identifying information.

40 (c) “Business” means:

1 (1) A sole proprietorship, partnership, limited liability company,  
2 corporation, association, or other legal entity that is organized or  
3 operated for the profit or financial benefit of its shareholders or  
4 other owners, that collects consumers' personal information, or  
5 on the behalf of which such information is collected and that alone,  
6 or jointly with others, determines the purposes and means of the  
7 processing of consumers' personal information, that does business  
8 in the State of California, and that satisfies one or more of the  
9 following thresholds:

10 (A) Has annual gross revenues in excess of twenty-five million  
11 dollars (\$25,000,000), as adjusted pursuant to paragraph (5) of  
12 subdivision (a) of Section 1798.185.

13 (B) Alone or in combination, annually buys, receives for the  
14 business' commercial purposes, sells, or shares for commercial  
15 purposes, alone or in combination, the personal information of  
16 50,000 or more consumers, households, or devices.

17 (C) Derives 50 percent or more of its annual revenues from  
18 selling consumers' personal information.

19 (2) Any entity that controls or is controlled by a business, as  
20 defined in paragraph (1), and that shares common branding with  
21 the business. "Control" or "controlled" means ownership of, or  
22 the power to vote, more than 50 percent of the outstanding shares  
23 of any class of voting security of a business; control in any manner  
24 over the election of a majority of the directors, or of individuals  
25 exercising similar functions; or the power to exercise a controlling  
26 influence over the management of a company. "Common branding"  
27 means a shared name, servicemark, or trademark.

28 (d) "Business purpose" means the use of personal information  
29 for the business' or a service provider's operational purposes, or  
30 other notified purposes, provided that the use of personal  
31 information shall be reasonably necessary and proportionate to  
32 achieve the operational purpose for which the personal information  
33 was collected or processed or for another operational purpose that  
34 is compatible with the context in which the personal information  
35 was collected. Business purposes are:

36 (1) Auditing related to a current interaction with the consumer  
37 and concurrent transactions, including, but not limited to, counting  
38 ad impressions to unique visitors, verifying positioning and quality  
39 of ad impressions, and auditing compliance with this specification  
40 and other standards.

1 (2) Detecting security incidents, protecting against malicious,  
2 deceptive, fraudulent, or illegal activity, and prosecuting those  
3 responsible for that activity.

4 (3) Debugging to identify and repair errors that impair existing  
5 intended functionality.

6 (4) Short-term, transient use, provided the personal information  
7 that is not disclosed to another third party and is not used to build  
8 a profile about a consumer or otherwise alter an individual  
9 consumer's experience outside the current interaction, including,  
10 but not limited to, the contextual customization of ads shown as  
11 part of the same interaction.

12 (5) Performing services on behalf of the business or service  
13 provider, including maintaining or servicing accounts, providing  
14 customer service, processing or fulfilling orders and transactions,  
15 verifying customer information, processing payments, providing  
16 financing, providing advertising or marketing services, providing  
17 analytic services, or providing similar services on behalf of the  
18 business or service provider.

19 (6) Undertaking internal research for technological development  
20 and demonstration.

21 (7) Undertaking activities to verify or maintain the quality or  
22 safety of a service or device that is owned, manufactured,  
23 manufactured for, or controlled by the business, and to improve,  
24 upgrade, or enhance the service or device that is owned,  
25 manufactured, manufactured for, or controlled by the business.

26 (e) "Collects," "collected," or "collection" means buying,  
27 renting, gathering, obtaining, receiving, or accessing any personal  
28 information pertaining to a consumer by any means. This includes  
29 receiving information from the consumer, either actively or  
30 passively, or by observing the consumer's behavior.

31 (f) "Commercial purposes" means to advance a person's  
32 commercial or economic interests, such as by inducing another  
33 person to buy, rent, lease, join, subscribe to, provide, or exchange  
34 products, goods, property, information, or services, or enabling or  
35 effecting, directly or indirectly, a commercial transaction.  
36 "Commercial purposes" do not include for the purpose of engaging  
37 in speech that state or federal courts have recognized as  
38 noncommercial speech, including political speech and journalism.

39 (g) "Consumer" means a natural person who is a California  
40 resident, as defined in Section 17014 of Title 18 of the California



1 Code of Regulations, as that section read on September 1, 2017,  
2 however identified, including by any unique identifier.

3 (h) “Deidentified” means information that cannot reasonably  
4 identify, relate to, describe, be capable of being associated with,  
5 or be linked, directly or indirectly, to a particular consumer,  
6 provided that a business that uses deidentified information:

7 (1) Has implemented technical safeguards that prohibit  
8 reidentification of the consumer to whom the information may  
9 pertain.

10 (2) Has implemented business processes that specifically  
11 prohibit reidentification of the information.

12 (3) Has implemented business processes to prevent inadvertent  
13 release of deidentified information.

14 (4) Makes no attempt to reidentify the information.

15 (i) “Designated methods for submitting requests” means a  
16 mailing address, email address, Internet Web page, Internet Web  
17 portal, toll-free telephone number, or other applicable contact  
18 information, whereby consumers may submit a request or direction  
19 under this title, and any new, consumer-friendly means of  
20 contacting a business, as approved by the Attorney General  
21 pursuant to Section 1798.185.

22 (j) “Device” means any physical object that is capable of  
23 connecting to the Internet, directly or indirectly, or to another  
24 device.

25 (k) “Health insurance information” means a consumer’s  
26 insurance policy number or subscriber identification number, any  
27 unique identifier used by a health insurer to identify the consumer,  
28 or any information in the consumer’s application and claims  
29 history, including any appeals records, if the information is linked  
30 or reasonably linkable to a consumer or household, including via  
31 a device, by a business or service provider.

32 (l) “Homepage” means the introductory page of an Internet Web  
33 site and any Internet Web page where personal information is  
34 collected. In the case of an online service, such as a mobile  
35 application, homepage means the application’s platform page or  
36 download page, a link within the application, such as from the  
37 application configuration, “About,” “Information,” or settings  
38 page, and any other location that allows consumers to review the  
39 notice required by subdivision (a) of Section 1798.145, including,  
40 but not limited to, before downloading the application.

1 (m) “Infer” or “inference” means the derivation of information,  
2 data, assumptions, or conclusions from facts, evidence, or another  
3 source of information or data.

4 (n) “Person” means an individual, proprietorship, firm,  
5 partnership, joint venture, syndicate, business trust, company,  
6 corporation, limited liability company, association, committee,  
7 and any other organization or group of persons acting in concert.

8 (o) (1) “Personal information” means information that identifies,  
9 relates to, describes, is capable of being associated with, or could  
10 reasonably be linked, directly or indirectly, with a particular  
11 consumer or household. Personal information includes, but is not  
12 limited to, the following:

13 (A) Identifiers such as a real name, alias, postal address, unique  
14 personal identifier, online identifier Internet Protocol address,  
15 email address, account name, social security number, driver’s  
16 license number, passport number, or other similar identifiers.

17 (B) Any categories of personal information described in  
18 subdivision (e) of Section 1798.80.

19 (C) Characteristics of protected classifications under California  
20 or federal law.

21 (D) Commercial information, including records of personal  
22 property, products or services purchased, obtained, or considered,  
23 or other purchasing or consuming histories or tendencies.

24 (E) Biometric information.

25 (F) Internet or other electronic network activity information,  
26 including, but not limited to, browsing history, search history, and  
27 information regarding a consumer’s interaction with an Internet  
28 Web site, application, or advertisement.

29 (G) Geolocation data.

30 (H) Audio, electronic, visual, thermal, olfactory, or similar  
31 information.

32 (I) Professional or employment-related information.

33 (J) Education information, defined as information that is not  
34 publicly available personally identifiable information as defined  
35 in the Family Educational Rights and Privacy Act (20 U.S.C.  
36 section 1232g, 34 C.F.R. Part 99).

37 (K) Inferences drawn from any of the information identified in  
38 this subdivision to create a profile about a consumer reflecting the  
39 consumer’s preferences, characteristics, psychological trends,

1 preferences, predispositions, behavior, attitudes, intelligence,  
2 abilities, and aptitudes.

3 (2) “Personal information” does not include publicly available  
4 information. For these purposes, “publicly available” means  
5 information that is lawfully made available from federal, state, or  
6 local government records, if any conditions associated with such  
7 information. “Publicly available” does not mean biometric  
8 information collected by a business about a consumer without the  
9 consumer’s knowledge. Information is not “publicly available” if  
10 that data is used for a purpose that is not compatible with the  
11 purpose for which the data is maintained and made available in  
12 the government records or for which it is publicly maintained.  
13 “Publicly available” does not include consumer information that  
14 is deidentified or aggregate consumer information.

15 (p) “Probabilistic identifier” means the identification of a  
16 consumer or a device to a degree of certainty of more probable  
17 than not based on any categories of personal information included  
18 in, or similar to, the categories enumerated in the definition of  
19 personal information.

20 (q) “Processing” means any operation or set of operations that  
21 are performed on personal data or on sets of personal data, whether  
22 or not by automated means.

23 (r) “Pseudonymize” or “Pseudonymization” means the  
24 processing of personal information in a manner that renders the  
25 personal information no longer attributable to a specific consumer  
26 without the use of additional information, provided that the  
27 additional information is kept separately and is subject to technical  
28 and organizational measures to ensure that the personal information  
29 is not attributed to an identified or identifiable consumer.

30 (s) “Research” means scientific, systematic study and  
31 observation, including basic research or applied research that is in  
32 the public interest and that adheres to all other applicable ethics  
33 and privacy laws or studies conducted in the public interest in the  
34 area of public health. Research with personal information that may  
35 have been collected from a consumer in the course of the  
36 consumer’s interactions with a business’ service or device for other  
37 purposes shall be:

38 (1) Compatible with the business purpose for which the personal  
39 information was collected.

1 (2) Subsequently pseudonymized and deidentified, or  
2 deidentified and in the aggregate, such that the information cannot  
3 reasonably identify, relate to, describe, be capable of being  
4 associated with, or be linked, directly or indirectly, to a particular  
5 consumer.

6 (3) Made subject to technical safeguards that prohibit  
7 reidentification of the consumer to whom the information may  
8 pertain.

9 (4) Subject to business processes that specifically prohibit  
10 reidentification of the information.

11 (5) Made subject to business processes to prevent inadvertent  
12 release of deidentified information.

13 (6) Protected from any reidentification attempts.

14 (7) Used solely for research purposes that are compatible with  
15 the context in which the personal information was collected.

16 (8) Not be used for any commercial purpose.

17 (9) Subjected by the business conducting the research to  
18 additional security controls limit access to the research data to only  
19 those individuals in a business as are necessary to carry out the  
20 research purpose.

21 (t) (1) “Sell,” “selling,” “sale,” or “sold,” means selling, renting,  
22 releasing, disclosing, disseminating, making available, transferring,  
23 or otherwise communicating orally, in writing, or by electronic or  
24 other means, a consumer’s personal information by the business  
25 to another business or a third party for monetary or other valuable  
26 consideration.

27 (2) For purposes of this title, a business does not sell personal  
28 information when:

29 (A) A consumer uses or directs the business to intentionally  
30 disclose personal information or uses the business to intentionally  
31 interact with a third party, provided the third party does not also  
32 sell the personal information, unless that disclosure would be  
33 consistent with the provisions of this title. An intentional interaction  
34 occurs when the consumer intends to interact with the third party,  
35 via one or more deliberate interactions. Hovering over, muting,  
36 pausing, or closing a given piece of content does not constitute a  
37 consumer’s intent to interact with a third party.

38 (B) The business uses or shares an identifier for a consumer  
39 who has opted out of the sale of the consumer’s personal  
40 information for the purposes of alerting third parties that the

1 consumer has opted out of the sale of the consumer’s personal  
2 information.

3 (C) The business uses or shares with a service provider personal  
4 information of a consumer that is necessary to perform a business  
5 purposes if both of the following conditions are met: services that  
6 the service provider performs on the business’ behalf, provided  
7 that the service provider also does not sell the personal information.

8 (i) The business has provided notice that information being used  
9 or shared in its terms and conditions consistent with Section  
10 1798.135.

11 (ii) The service provider does not further collect, sell, or use the  
12 personal information of the consumer except as necessary to  
13 perform the business purpose.

14 (D) The business transfers to a third party the personal  
15 information of a consumer as an asset that is part of a merger,  
16 acquisition, bankruptcy, or other transaction in which the third  
17 party assumes control of all or part of the business provided that  
18 information is used or shared consistently with Sections 1798.110  
19 and 1798.115. If a third party materially alters how it uses or shares  
20 the personal information of a consumer in a manner that is  
21 materially inconsistent with the promises made at the time of  
22 collection, it shall provide prior notice of the new or changed  
23 practice to the consumer. The notice shall be sufficiently prominent  
24 and robust to ensure that existing consumers can easily exercise  
25 their choices consistently with Section 1798.120. This  
26 subparagraph does not authorize a business to make material,  
27 retroactive privacy policy changes or make other changes in their  
28 privacy policy in a manner that would violate the Unfair and  
29 Deceptive Practices Act (Chapter 5 (commencing with Section  
30 17200) of Part 2 of Division 7 of the Business and Professions  
31 Code).

32 (u) “Service” or “services” means work, labor, and services,  
33 including services furnished in connection with the sale or repair  
34 of goods.

35 (v) “Service provider” means a sole proprietorship, partnership,  
36 limited liability company, corporation, association, or other legal  
37 entity that is organized or operated for the profit or financial benefit  
38 of its shareholders or other owners, that processes information on  
39 behalf of a business and to which the business discloses a  
40 consumer’s personal information for a business purpose pursuant

1 to a written contract, provided that the contract prohibits the entity  
2 receiving the information from retaining, using, or disclosing the  
3 personal information for any purpose other than for the specific  
4 purpose of performing the services specified in the contract for  
5 the business, or as otherwise permitted by this title, including  
6 retaining, using, or disclosing the personal information for a  
7 commercial purpose other than providing the services specified in  
8 the contract with the business.

9 (w) “Third party” means a person who is not any of the  
10 following:

11 (1) The business that collects personal information from  
12 consumers under this title.

13 (2) A person to whom the business discloses a consumer’s  
14 personal information for a business purpose pursuant to a written  
15 contract, provided that the contract:

16 (A) Prohibits the person receiving the personal information  
17 from:

18 (i) Selling the personal information.

19 (ii) Retaining, using, or disclosing the personal information for  
20 any purpose other than for the specific purpose of performing the  
21 services specified in the contract, including retaining, using, or  
22 disclosing the personal information for a commercial purpose other  
23 than providing the services specified in the contract.

24 (iii) Retaining, using, or disclosing the information outside of  
25 the direct business relationship between the person and the  
26 business.

27 (B) Includes a certification made by the person receiving the  
28 personal information that the person understands the restrictions  
29 in subparagraph (A) and will comply with them.

30 A person covered by paragraph (2) that violates any of the  
31 restrictions set forth in this title shall be liable for the violations.  
32 A business that discloses personal information to a person covered  
33 by paragraph (2) in compliance with paragraph (2) shall not be  
34 liable under this title if the person receiving the personal  
35 information uses it in violation of the restrictions set forth in this  
36 title, provided that, at the time of disclosing the personal  
37 information, the business does not have actual knowledge, or  
38 reason to believe, that the person intends to commit such a  
39 violation.

1 (x) “Unique identifier” or “Unique personal identifier” means  
2 a persistent identifier that can be used to recognize a consumer, a  
3 family, or a device that is linked to a consumer or family, over  
4 time and across different services, including, but not limited to, a  
5 device identifier; an Internet Protocol address; cookies, beacons,  
6 pixel tags, mobile ad identifiers, or similar technology; customer  
7 number, unique pseudonym, or user alias; telephone numbers, or  
8 other forms of persistent or probabilistic identifiers that can be  
9 used to identify a particular consumer or device. For purposes of  
10 this subdivision, “family” means a custodial parent or guardian  
11 and any minor children over which the parent or guardian has  
12 custody.

13 (y) “Verifiable consumer request” means a request that is made  
14 by a consumer, by a consumer on behalf of the consumer’s minor  
15 child, or by a natural person or a person registered with the  
16 Secretary of State, authorized by the consumer to act on the  
17 consumer’s behalf, and that the business can reasonably verify,  
18 pursuant to regulations adopted by the Attorney General pursuant  
19 to paragraph (7) of subdivision (a) of section 1798.185 to be the  
20 consumer about whom the business has collected personal  
21 information. A business is not obligated to provide information to  
22 the consumer pursuant to Sections 1798.110 and 1798.115 if the  
23 business cannot verify, pursuant this subdivision and regulations  
24 adopted by the Attorney General pursuant to paragraph (7) of  
25 subdivision (a) of section 1798.185, that the consumer making the  
26 request is the consumer about whom the business has collected  
27 information or is a person authorized by the consumer to act on  
28 such consumer’s behalf.

29 1798.145. (a) The obligations imposed on businesses by this  
30 title shall not restrict a business’s ability to:

- 31 (1) Comply with federal, state, or local laws.
- 32 (2) Comply with a civil, criminal, or regulatory inquiry,  
33 investigation, subpoena, or summons by federal, state, or local  
34 authorities.
- 35 (3) Cooperate with law enforcement agencies concerning  
36 conduct or activity that the business, service provider, or third  
37 party reasonably and in good faith believes may violate federal,  
38 state, or local law.
- 39 (4) Exercise or defend legal claims.

1 (5) Collect, use, retain, sell, or disclose consumer information  
2 that is deidentified or in the aggregate consumer information.

3 (6) Collect or sell a consumer’s personal information if every  
4 aspect of that commercial conduct takes place wholly outside of  
5 California. For purposes of this title, commercial conduct takes  
6 place wholly outside of California if the business collected that  
7 information while the consumer was outside of California, no part  
8 of the sale of the consumer’s personal information occurred in  
9 California, and no personal information collected while the  
10 consumer was in California is sold. This paragraph shall not permit  
11 a business from storing, including on a device, personal information  
12 about a consumer when the consumer is in California and then  
13 collecting that personal information when the consumer and stored  
14 personal information is outside of California.

15 (b) The obligations imposed on businesses by Sections 1798.110  
16 to 1798.135, inclusive, shall not apply where compliance by the  
17 business with the title would violate an evidentiary privilege under  
18 California law and shall not prevent a business from providing the  
19 personal information of a consumer to a person covered by an  
20 evidentiary privilege under California law as part of a privileged  
21 communication.

22 (c) This act shall not apply to protected or health information  
23 that is collected by a covered entity governed by the Confidentiality  
24 of Medical Information Act (Part 2.6 (commencing with section  
25 56 of Division 1)) or governed by the privacy, security, and breach  
26 notification rules issued by the federal Department of Health and  
27 Human Services, Parts 160 and 164 of Title 45 of the Code of  
28 Federal Regulations, established pursuant to the Health Insurance  
29 Portability and Availability Act of 1996. For purposes of this  
30 subdivision, the definition of “medical information” in Section  
31 56.05 shall apply and the definitions of “protected health  
32 information” and “covered entity” from the federal privacy rule  
33 shall apply.

34 (d) This title shall not apply to the sale of personal information  
35 to or from a consumer reporting agency if that information is to  
36 be reported in, or used to generate, a consumer report as defined  
37 by subdivision (d) of Section 1681a of Title 15 of the United States  
38 Code, and use of that information is limited by the federal Fair  
39 Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).



1 (e) This title shall not apply to personal information collected,  
2 processed, sold, or disclosed pursuant to the federal  
3 Gramm-Leach-Bliley Act (Public Law 106-102), and implementing  
4 regulations, if it is in conflict with that law.

5 (f) This title shall not apply to personal information collected,  
6 processed, sold, or disclosed pursuant to the Driver's Privacy  
7 Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.), if it is in  
8 conflict with that act.

9 (g) Notwithstanding a business' obligations to respond to and  
10 honor consumer rights requests pursuant to this title:

11 (1) A time period for a business to respond to any verified  
12 consumer request may be extended by up to 90 additional days  
13 where necessary, taking into account the complexity and number  
14 of the requests. The business shall inform the consumer of any  
15 such extension within 45 days of receipt of the request, together  
16 with the reasons for the delay.

17 (2) If the business does not take action on the request of the  
18 consumer, the business shall inform the consumer, without delay  
19 and at the latest within the time period permitted of response by  
20 this section, of the reasons for not taking action and any rights the  
21 consumer may have to appeal the decision to the business.

22 (3) If requests from a consumer are manifestly unfounded or  
23 excessive, in particular because of their repetitive character, a  
24 business may either charge a reasonable fee, taking into account  
25 the administrative costs of providing the information or  
26 communication or taking the action requested, or refuse to act on  
27 the request and notify the consumer of the reason for refusing the  
28 request. The business shall bear the burden of demonstrating that  
29 any verified consumer request is manifestly unfounded or  
30 excessive.

31 (h) A business that discloses personal information to a service  
32 provider shall not be liable under this title if the service provider  
33 receiving the personal information uses it in violation of the  
34 restrictions set forth in the title, provided that, at the time of  
35 disclosing the personal information, the business does not have  
36 actual knowledge, or reason to believe, that the service provider  
37 intends to commit such a violation. A service provider shall  
38 likewise not be liable under this title for the obligations of a  
39 business for which it provides services as set forth in this title.

1 (i) This title shall not be construed to require a business to  
2 reidentify or otherwise link information that is not maintained in  
3 a manner that would be considered personal information.

4 (j) The rights afforded to consumers and the obligations imposed  
5 on the business in this title shall not adversely affect the rights and  
6 freedoms of other consumers.

7 1798.150. (a) (1) Any consumer ~~of a business~~ whose  
8 *nonencrypted or nonredacted personal information* information,  
9 *as defined in subparagraph (A) of paragraph (1) of subdivision*  
10 *(d) of Section 1798.81.5*, is subject to ~~a security breach of the~~  
11 ~~business as described in Section 1798.82~~ *an unauthorized access*  
12 *and exfiltration, theft, or disclosure* as a result of the business'  
13 violation of the duty to implement and maintain reasonable security  
14 procedures and practices appropriate to the nature of the  
15 information to protect the personal information may institute a  
16 civil action for any of the following:

17 (A) To recover damages in an amount not less than one hundred  
18 dollars (\$100) and not greater than seven hundred and fifty (\$750)  
19 per consumer per incident or actual damages, whichever is greater.

20 (B) Injunctive or declaratory relief.

21 (C) Any other relief the court deems proper.

22 (2) In assessing the amount of statutory damages, the court shall  
23 consider any one or more of the relevant circumstances presented  
24 by any of the parties to the case, including, but not limited to, the  
25 nature and seriousness of the misconduct, the number of violations,  
26 the persistence of the misconduct, the length of time over which  
27 the misconduct occurred, the willfulness of the defendant's  
28 misconduct, and the defendant's assets, liabilities, and net worth.

29 (b) Actions pursuant to this section may be brought by a  
30 consumer if all of the following requirements are met:

31 (1) Prior to initiating any action against a business for statutory  
32 damages on an individual or class-wide basis, a consumer shall  
33 provide a business 30 days' written notice identifying the specific  
34 provisions of this title the consumer alleges have been or are being  
35 violated. In the event a cure is possible, if within the 30 days the  
36 business actually cures the noticed violation and provides the  
37 consumer an express written statement that the violations have  
38 been cured and that no further violations shall occur, no action for  
39 individual statutory damages or class-wide statutory damages may  
40 be initiated against the business. No notice shall be required prior

1 to an individual consumer initiating an action solely for actual  
2 pecuniary damages suffered as a result of the alleged violations  
3 of this title. If a business continues to violate this title in breach  
4 of the express written statement provided to the consumer under  
5 this section, the consumer may initiate an action against the  
6 business to enforce the written statement and may pursue statutory  
7 damages for each breach of the express written statement, as well  
8 as any other violation of the title that postdates the written  
9 statement.

10 (2) A consumer bringing an action as defined in paragraph (1)  
11 of subdivision (c) shall notify the Attorney General within 30 days  
12 that the action has been filed.

13 (3) The Attorney General, upon receiving such notice shall,  
14 within 30 days, do one of the following:

15 (A) Notify the consumer bringing the action of the Attorney  
16 General's intent to prosecute an action against the violation. If the  
17 Attorney General does not prosecute within six months, the  
18 consumer may proceed with the action.

19 (B) Refrain from acting within the 30 days, allowing the  
20 consumer bringing the action to proceed.

21 (C) Notify the consumer bringing the action that the consumer  
22 shall not proceed with the action.

23 (c) *Nothing in this act shall be interpreted to serve as the basis*  
24 *for a private right of action under any other law. This shall not be*  
25 *construed to relieve any party from any duties or obligations*  
26 *imposed under other law or the United States or California*  
27 *Constitution.*

28 1798.155. Any business or third party may seek the opinion  
29 of the Attorney General for guidance on how to comply with the  
30 provisions of this title.

31 (a) A business shall be in violation of this title if it fails to cure  
32 any alleged violation within 30 days after being notified of alleged  
33 noncompliance. Any business, service provider, or other person  
34 that violates this title shall be liable for a civil penalty as provided  
35 in Section 17206 of the Business and Professions Code in a civil  
36 action brought in the name of the people of the State of California  
37 by the Attorney General. The civil penalties provided for in this  
38 section shall be exclusively assessed and recovered in a civil action  
39 brought in the name of the people of the State of California by the  
40 Attorney General.

1 (b) Notwithstanding Section 17206 of the Business and  
2 Professions Code, any person, business, or service provider that  
3 intentionally violates this title may be liable for a civil penalty of  
4 up to seven thousand five hundred dollars (\$7,500) for each  
5 violation.

6 (c) Notwithstanding Section 17206 of the Business and  
7 Professions Code, any civil penalty assessed pursuant to Section  
8 17206 for a violation of this title, and the proceeds of any  
9 settlement of an action brought pursuant to subdivision (a), shall  
10 be allocated as follows:

11 (1) Twenty percent to the Consumer Privacy Fund, created  
12 within the General Fund pursuant to subdivision (a) of Section  
13 1798.109, with the intent to fully offset any costs incurred by the  
14 state courts and the Attorney General in connection with this title.

15 (2) Eighty percent to the jurisdiction on whose behalf the action  
16 leading to the civil penalty was brought.

17 (d) It is the intent of the Legislature that the percentages  
18 specified in subdivision (c) be adjusted as necessary to ensure that  
19 any civil penalties assessed for a violation of this title fully offset  
20 any costs incurred by the state courts and the Attorney General in  
21 connection with this title, including a sufficient amount to cover  
22 any deficit from a prior fiscal year.

23 1798.160. (a) A special fund to be known as the “Consumer  
24 Privacy Fund” is hereby created within the General Fund in the  
25 State Treasury, and is available upon appropriation by the  
26 Legislature to offset any costs incurred by the state courts in  
27 connection with actions brought to enforce this title and any costs  
28 incurred by the Attorney General in carrying out the Attorney  
29 General’s duties under this title.

30 (b) Funds transferred to the Consumer Privacy Fund shall be  
31 used exclusively to offset any costs incurred by the state courts  
32 and the Attorney General in connection with this title. These funds  
33 shall not be subject to appropriation or transfer by the Legislature  
34 for any other purpose, unless the Director of Finance determines  
35 that the funds are in excess of the funding needed to fully offset  
36 the costs incurred by the state courts and the Attorney General in  
37 connection with this title, in which case the Legislature may  
38 appropriate excess funds for other purposes.

39 1798.175. This title is intended to further the constitutional  
40 right of privacy and to supplement existing laws relating to

1 consumers' personal information, including, but not limited to,  
2 Chapter 22 (commencing with Section 22575) of Division 8 of the  
3 Business and Professions Code and Title 1.81 (commencing with  
4 Section 1798.80). The provisions of this title are not limited to  
5 information collected electronically or over the Internet, but apply  
6 to the collection and sale of all personal information collected by  
7 a business from consumers. Wherever possible, law relating to  
8 consumers' personal information should be construed to harmonize  
9 with the provisions of this title, but in the event of a conflict  
10 between other laws and the provisions of this title, the provisions  
11 of the law that afford the greatest protection for the right of privacy  
12 for consumers shall control.

13 1798.180. This title is a matter of statewide concern and  
14 supersedes and preempts all rules, regulations, codes, ordinances,  
15 and other laws adopted by a city, county, city and county,  
16 municipality, or local agency regarding the collection and sale of  
17 consumers' personal information by a business.

18 1798.185. (a) On or before January 1, 2020, the Attorney  
19 General shall solicit broad public participation to adopt regulations  
20 to further the purposes of this title, including, but not limited to,  
21 the following areas:

22 (1) Updating as needed additional categories of personal  
23 information to those enumerated in subdivision (c) of Section  
24 1798.130 and subdivision (o) of Section 1798.140 in order to  
25 address changes in technology, data collection practices, obstacles  
26 to implementation, and privacy concerns.

27 (2) Updating as needed the definition of unique identifiers to  
28 address changes in technology, data collection, obstacles to  
29 implementation, and privacy concerns, and additional categories  
30 to the definition of designated methods for submitting requests to  
31 facilitate a consumer's ability to obtain information from a business  
32 pursuant to Section 1798.130.

33 (3) Establishing any exceptions necessary to comply with state  
34 or federal law, including, but not limited to, those relating to trade  
35 secrets and intellectual property rights, within one year of passage  
36 of this title and as needed thereafter.

37 (4) Establishing rules and procedures for the following, within  
38 one year of passage of this title and as needed thereafter:

1 (A) To facilitate and govern the submission of a request by a  
2 consumer to opt out of the sale of personal information pursuant  
3 to paragraph (1) of subdivision (a) of Section 1798.145.

4 (B) To govern business compliance with a consumer's opt-out  
5 request.

6 (C) The development and use of a recognizable and uniform  
7 opt-out logo or button by all businesses to promote consumer  
8 awareness of the opportunity to opt out of the sale of personal  
9 information.

10 (5) Adjusting the monetary threshold in subparagraph (A) of  
11 paragraph (1) of subdivision (b) of Section 1798.106 in January  
12 of every odd-numbered year to reflect any increase in the Consumer  
13 Price Index.

14 (6) Establishing rules, procedures, and any exceptions necessary  
15 to ensure that the notices and information that businesses are  
16 required to provide pursuant to this title are provided in a manner  
17 that may be easily understood by the average consumer, are  
18 accessible to consumers with disabilities, and are available in the  
19 language primarily used to interact with the consumer, including  
20 establishing rules and guidelines regarding financial incentive  
21 offerings, within one year of passage of this title and as needed  
22 thereafter.

23 (7) Establishing rules and procedures to further the purposes of  
24 Sections 1798.110 and 1798.115 and to facilitate a consumer's or  
25 the consumer's authorized agent's ability to obtain information  
26 pursuant to Section 1798.130, with the goal of minimizing the  
27 administrative burden on consumers, taking into account available  
28 technology, security concerns, and the burden on the business, to  
29 govern a business' determination that a request for information  
30 received by a consumer is a verifiable request, including treating  
31 a request submitted through a password-protected account  
32 maintained by the consumer with the business while the consumer  
33 is logged into the account as a verifiable request and providing a  
34 mechanism for a consumer who does not maintain an account with  
35 the business to request information through the business'  
36 authentication of the consumer's identity, within one year of  
37 passage of this title and as needed thereafter.

38 (b) The Attorney General may adopt additional regulations as  
39 necessary to further the purposes of this title.

1 1798.190. If a series of steps or transactions were component  
2 parts of a single transaction intended from the beginning to be  
3 taken with the intention of avoiding the reach of this title, including  
4 the disclosure of information by a business to a third party in order  
5 to avoid the definition of sell, a court shall disregard the  
6 intermediate steps or transactions for purposes of effectuating the  
7 purposes of this title.

8 1798.192. Any provision of a contract or agreement of any  
9 kind that purports to waive or limit in any way a consumer's rights  
10 under this title, including, but not limited to, any right to a remedy  
11 or means of enforcement, shall be deemed contrary to public policy  
12 and shall be void and unenforceable. This section shall not prevent  
13 a consumer from declining to request information from a business,  
14 declining to opt out of a business' sale of the consumer's personal  
15 information, or authorizing a business to sell the consumer's  
16 personal information after previously opting out.

17 1798.194. This title shall be liberally construed to effectuate  
18 its purposes.

19 1798.196. This title is intended to supplement federal and state  
20 law, if permissible, but shall not apply if such application is  
21 preempted by, or in conflict with, federal law or the California  
22 Constitution.

23 1798.198. (a) Subject to limitation provided in subdivision  
24 (b), this title shall be operative January 1, 2020.

25 (b) This act shall become operative only if initiative measure  
26 No. 17-0039, The Consumer Right to Privacy Act of 2018, is  
27 withdrawn from the ballot pursuant to Section 9604 of the Elections  
28 Code.

29 SEC. 4. (a) The provisions of this bill are severable. If any  
30 provision of this bill or its application is held invalid, that invalidity  
31 shall not affect other provisions or applications that can be given  
32 effect without the invalid provision or application.