

~~Assembly Bill No. 375~~ AMENDED IN ASSEMBLY AUGUST 27, 2018

AMENDED IN ASSEMBLY AUGUST 24, 2018

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JUNE 14, 2018

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AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1121

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

February 13, 2018

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~~CHAPTER 55~~

An act to amend Sections 1798.100, 1798.105, 1798.110, 1798.115, 1798.120, 1798.125, 1798.130, 1798.135, 1798.140, 1798.145, 1798.150, 1798.155, 1798.185, 1798.192, 1798.196, and 1798.198 of, and to add Title 1.81.5 (commencing with Section 1798.100) to Part 4 of Division 3- of 1798.199 to, the Civil Code, relating to ~~privacy~~ personal information, and declaring the urgency thereof, to take effect immediately.

~~[Approved by Governor June 28, 2018. Filed with Secretary of State June 28, 2018.]~~

legislative counsel's digest

~~AB 375, 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~~[SB 1121, as amended, Dodd. California Consumer Privacy Act of 2018.](#)

(1) Existing law, the California Consumer Privacy Act of 2018, grants, commencing on January 1, 2020, a consumer various rights with regard to personal information relating to that consumer that is held by a business, including the right to request a business to delete any

personal information about the consumer collected by the business, and requires the business to comply with a verifiable consumer request to that effect, unless it is necessary for the business or service provider to maintain the customer's personal information in order to carry out specified acts. The act requires a business that collects personal information about a consumer to disclose the consumer's right to delete personal information described above on its Internet Web site or in its online privacy policy or policies.

This bill would modify that requirement by requiring a business that collects personal information about a consumer to disclose the consumer's right to delete personal information in a form that is reasonably accessible to consumers and in accordance with a specified process.

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~~(2) 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 act establishes several exceptions to the requirements imposed, and rights granted, by the act, including prohibiting the act from being interpreted to restrict the ability of a business to comply with federal, state, or local laws, and by providing that the act does not apply if it is in conflict with the California Constitution.

This bill would provide that the rights afforded to consumers and the obligations imposed on any business under the act does not apply if those rights or obligations would infringe on the noncommercial activities of people and entities described in a specified provision of the California Constitution addressing activities related to newspapers and periodicals. The bill would also prohibit application of the act to personal information collected, processed, sold, or disclosed pursuant to a specified federal law relating to banks, brokerages, insurance companies, and credit reporting agencies, among others, and would also except application of the act to that information pursuant to the California Financial Information Privacy Act. The bill would provide that these exceptions, and the exception provided to information collected, processed, sold, or disclosed pursuant to the Driver's Privacy Protection Act of 1994, do not apply to specific provisions of the act related to unauthorized theft and disclosure of information. The bill would revise and expand the exception provided for medical information information, would except a provider of health care or a covered entity, and would also except information collected as part of clinical trials, as specified. The bill would also clarify that the act does not apply if it is in conflict with the United States Constitution.

(3) The act generally provides for its enforcement by the Attorney General, but also provides for a private right of action in connection

~~The bill would provide for its enforcement by the Attorney General, as specified, and would provide a private right of action in connection with 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.~~ with certain unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information, as defined for this purpose, provided that the consumer bringing an action notify the Attorney General of the action in accordance with a specified process. The act provides that a business, service provider, or other person who violates its provisions, and fails to cure those violations within 30 days, is liable for a civil penalty under laws relating to unfair competition in an action to be brought by the Attorney General. The act prescribes a formula for allocating civil penalties and settlements assessed in these actions with 80% to be allocated to the jurisdictions of the behalf of which the action was brought.

This bill would clarify that the only private right of action permitted under the act is the private right of action described above for violations of unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information. information and would delete the requirement that a consumer bringing a private right of action notify the Attorney General. The bill would remove references to laws relating to unfair competition in connection with Attorney General actions described above. The bill would limit the civil penalty to be assessed in an Attorney General action in this context to not more than \$2,500 per violation or \$7,500 per each intentional violation and would specify that an injunction is also available as remedy. The bill would eliminate the formula for allocating penalties and settlements and would instead provide that all of these moneys be deposited in the Consumer Privacy Fund with the intent to offset costs incurred by the courts and the Attorney General in connection with the act. The bill would also revise timelines and requirements regarding the promulgation of regulations by the Attorney General in connection with the act.

(4) The act makes its provisions operative on January 1, 2020, provided a specified contingency is satisfied. Provisions of the act supersede and preempt laws adopted by local entities regarding the collection and sale of a consumer's personal information by a business. This bill would make the provisions of the act that supersede and preempt laws adopted by local entities, as described above, operative

on the date the bill becomes effective.

(5) This bill would also make various technical and clarifying changes to the act.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. 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 as “The California Consumer Privacy Act of 2018.” SEC. 2. The Legislature finds and declares that:

~~(a) In 1972, California voters amended the California Constitution to include the right of privacy among the “inalienable” rights of all people. The amendment established a legal and enforceable right of privacy for every Californian. Fundamental to this right of privacy is the ability of individuals to control the use, including the sale, of their personal information.~~

~~(b) Since California voters approved the right of privacy, the California Legislature has adopted specific mechanisms to safeguard Californians’ privacy, including the Online Privacy Protection Act, the Privacy Rights for California Minors in the Digital World Act, and Shine the Light, a California law intended to give Californians the ‘who, what, where, and when’ of how businesses handle consumers’ personal information.~~

~~(c) At the same time, California is one of the world’s leaders in the development of new technologies and related industries. Yet the proliferation of personal information has limited Californians’ ability to properly protect and safeguard their privacy. It is almost impossible to apply for a job, raise a child, drive a car, or make an appointment without sharing personal information.~~

~~(d) As the role of technology and data in the every daily lives of consumers increases, there is an increase in the amount of personal information shared by consumers with businesses. California law has not kept pace with these developments and the personal privacy implications surrounding the collection, use, and protection of personal information.~~

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

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

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

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

~~(i) Therefore, it is the intent of the Legislature to further Californians’ right~~

~~to privacy by giving consumers an effective way to control their personal information, by ensuring the following rights:~~

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

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

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

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

~~(5)The right of Californians to equal service and price, even if they exercise their privacy rights.~~  
~~SEC. 3. Title 1.81.5 (commencing with Section 1798.100) is added to Part 4 of Division 3 of the Civil Code, to Section 1798.100 of the Civil Code, as added by~~

2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
3 read:

~~TITLE 1.81.5. CALIFORNIA CONSUMER PRIVACY ACT OF 2018~~

4 1798.100. (a) A consumer shall have the right to request that  
5 a business that collects a consumer’s personal information disclose  
6 to that consumer

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7 information the business has collected.

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

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

(d) A business that receives a verifiable consumer request from  
17 a consumer to access personal information shall promptly take  
18 steps to disclose and deliver, free of charge to the consumer, the  
19 personal information required by this section. The information  
20 may be delivered by mail or electronically, and if provided  
21 electronically, the information shall be in a portable and, to the  
22 extent technically feasible, in a readily useable format that allows  
23 the consumer to transmit this information to another entity without  
24 hindrance. A business may provide personal information to a  
25 consumer at any time, but shall not be required to provide personal

26 information to a consumer more than twice in a 12-month period.  
(e) This section shall not require a business to retain any  
27 personal information collected for a single, one-time transaction,  
28 if such information is not sold or retained by the business or to  
29 reidentify or otherwise link information that is not maintained in  
30 a manner that would be considered personal information.

1 ~~(1) Retain any personal information collected for a single, one-time transaction, if the information is not~~  
~~sold or retained by the business.~~ SEC. 2. Section 1798.105 of the Civil Code, as added by  
2 ~~(2) Reidentify or otherwise link any data that, in the ordinary course of business, is not maintained in a~~  
~~manner that would be considered personal information.~~ Section 3 of Chapter 55 of the Statutes of  
3 2018, is amended to  
3 read:

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.

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

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

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

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

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

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

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

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

(6) Engage in public or peer-reviewed scientific, historical, or

29 statistical research in the public interest that adheres to all other  
30 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.

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

(8) Comply with a legal obligation.

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

8 SEC. 3. Section 1798.110 of the Civil Code, as added by  
9 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
10 read:

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:

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

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

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

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

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

(b) A business that collects personal information about a  
19 consumer shall disclose to the consumer, pursuant to paragraph ~~(3)~~  
(3) of subdivision (a) of Section 1798.130, the information  
20 specified in subdivision (a) upon receipt of a verifiable consumer  
21 request from the consumer.

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

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

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

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

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

(5) The specific pieces of personal information the business has

2 collected about that consumer.

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

(1) Retain any personal information about a consumer collected 3 for a single one-time transaction if, in the ordinary course of 4 business, that information about the consumer is not retained.

(2) Reidentify or otherwise link any data that, in the ordinary 5 course of business, is not maintained in a manner that would be 6 considered personal information.

7 SEC. 4. Section 1798.115 of the Civil Code, as added by  
8 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
9 read:

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:

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

(2) The categories of personal information that the business sold 14 about the consumer and the categories of third parties to whom 15 the personal information was sold, by category or categories of 16 personal information for each third party to whom the personal 17 information was sold.

(3) The categories of personal information that the business 18 disclosed about the consumer for a business purpose.

(b) A business that sells personal information about a consumer, 19 or that discloses a consumer's personal information for a business 20 purpose, shall disclose, pursuant to paragraph (4) of subdivision ~~(a)~~ (a) of Section 1798.130, the information specified in subdivision ~~(a)~~ (a) to the consumer upon receipt of a verifiable consumer request 21 from the consumer.

(c) A business that sells consumers' personal information, or 22 that discloses consumers' personal information for a business 23 purpose, shall disclose, pursuant to subparagraph (C) of paragraph ~~(5)~~ (5) of subdivision (a) of Section 1798.130:

(1) The category or categories of consumers' personal 24 information it has sold, or if the business has not sold consumers' 25 personal information, it shall disclose that fact.

(2) The category or categories of consumers' personal 1 information it has disclosed for a business purpose, or if the 2 business has not disclosed the consumers' personal information 3 for a business purpose, it shall disclose that fact.

(d) A third party shall not sell personal information about a 4 consumer that has been sold to the third party by a business unless 5 the consumer has

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6 opportunity to exercise the right to opt ot pursuant to Section 9  
1798.120.

10 SEC. 5. Section 1798.120 of the Civil Code, as added by  
11 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
12 read:

13 1798.120. (a) A consumer shall have the right, at any time, to  
14 direct a business that sells personal information about the consumer  
15 to third parties not to sell the consumer’s personal information.

16 This right may be referred to as the right to opt ot.  
(b) A business that sells consumers’ personal information to  
17 third parties shall provide notice to consumers, pursuant to  
18 subdivision (a) of Section 1798.135, that this information may be  
19 sold and that consumers have the “right to opt ot” of the sale of  
20 their personal information.

~~(e) A business that has received direction from a consumer not to sell the consumer’s personal information or, in the case of a minor consumer’s personal information has not received consent to sell the minor consumer’s personal information shall be prohibited, pursuant to paragraph (4) of subdivision (a) of Section 1798.135, from selling the consumer’s personal information after its receipt of the consumer’s direction, unless the consumer subsequently provides express authorization for the sale of the consumer’s personal information.~~

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

(d) ~~A business that has received direction from a consumer not~~  
30 ~~to sell the consumer’s personal information or, in the case of a~~  
31 ~~minor consumer’s personal information has not received consent~~  
32 ~~to sell the minor consumer’s personal information shall be~~  
33 ~~prohibited, pursuant to paragraph (4) of subdivision (a) of Section~~  
34 ~~1798.135, from selling the consumer’s personal information after~~  
35 ~~its receipt of the consumer’s direction, unless the consumer~~  
36 ~~subsequently provides express authorization for the sale of the~~  
37 ~~consumer’s personal information.~~

1 SEC. 6. Section 1798.125 of the Civil Code, as added by  
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
3 read:

4 1798.125. (a) (1) A business shall not discriminate against a  
5 consumer because the consumer exercised any of the consumer’s

6 rights under this title, including, but not limited to, by:

(A) Denying goods or services to the consumer.

(B) Charging different prices or rates for goods or services,

7 including through the use of discounts or other benefits or imposing  
8 penalties.

(C) Providing a different level or quality of goods or services

9 to the consumer, ~~if the consumer exercises the consumer's rights under this title.~~

(D) Suggesting that the consumer will receive a different price

10 or rate for goods or services or a different level or quality of goods

11 or services.

(2) Nothing in this subdivision prohibits a business from

12 charging a consumer a different price or rate, or from providing a

13 different level or quality of goods or services to the consumer, if

14 that difference is reasonably related to the value provided to the

15 consumer by the consumer's data.

(b) (1) A business may offer financial incentives, including

16 payments to consumers as compensation, for the collection of

17 personal information, the sale of personal information, or the

18 deletion of personal information. A business may also offer a

19 different price, rate, level, or quality of goods or services to the

20 consumer if that price or difference is directly related to the value

21 provided to the consumer by the consumer's data.

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

(3) A business may enter a consumer into a financial incentive

24 program only if the consumer gives the business prior opt-in

25 consent pursuant to Section 1798.135 which clearly describes the

26 material terms of the financial incentive program, and which may

27 be revoked by the consumer at any time.

(4) A business shall not use financial incentive practices that

28 are unjust, unreasonable, coercive, or usurious in nature.

29 SEC. 7. Section 1798.130 of the Civil Code, as added by

30 Section 3 of Chapter 55 of the Statutes of 2018, is amended to

31 read:

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1 1798.130. (a) In order to comply with Sections 1798.100, 2  
1798.105, 1798.110, 1798.115, and 1798.125, a business shall, in  
3 a form that is reasonably accessible to consumers, ~~a business shall:~~

(1) Make available to consumers two or more designated

4 methods for submitting requests for information required to be

5 disclosed pursuant to Sections 1798.110 and 1798.115, including,

6 at a minimum, a toll-free telephone number, and if the business

7 maintains an Internet Web site, a Web site address.

(2) Disclose and deliver the required information to a consumer

8 free of charge within 45 days of receiving a verifiable consumer

9 request from the consumer. The business shall promptly take steps

10 to determine whether the request is a verifiable consumer request,

11 but this shall not extend the business's duty to disclose and deliver

12 the information within 45 days of receipt of the consumer's request.

13 The time period to provide the required information may be  
14 extended once by an additional 45 days when reasonably necessary,  
15 provided the consumer is provided notice of the extension within  
16 the first 45-day period. The disclosure shall cover the 12-month  
17 period preceding the business's receipt of the verifiable consumer  
18 request and shall be made in writing and delivered through the  
19 consumer's account with the business, if the consumer maintains  
20 an account with the business, or by mail or electronically at the  
21 consumer's option if the consumer does not maintain an account  
22 with the business, in a readily useable format that allows the  
23 consumer to transmit this information from one entity to another  
24 entity without hindrance. The business shall not require the  
25 consumer to create an account with the business in order to make  
26 a verifiable consumer request.

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

(A) To identify the consumer, associate the information provided  
27 by the consumer in the verifiable consumer request to any personal  
28 information previously collected by the business about the  
29 consumer.

(B) Identify by category or categories the personal information  
30 collected about the consumer in the preceding 12 months by  
31 reference to the enumerated category or categories in subdivision ~~(e)~~  
(c) that most closely describes the personal information collected.

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

(A) Identify the consumer and associate the information  
32 provided by the consumer in the verifiable consumer request to

1 any personal information previously collected by the business  
2 about the consumer.

(B) Identify by category or categories the personal information  
3 of the consumer that the business sold in the preceding 12 months  
4 by reference to the enumerated category in subdivision (c) that  
5 most closely describes the personal information, and provide the  
6 categories of third parties to whom the consumer's personal  
7 information was sold in the preceding 12 months by reference to  
8 the enumerated category or categories in subdivision (c) that most  
9 closely describes the personal information sold. The business shall  
10 disclose the information in a list that is separate from a list  
11 generated for the purposes of subparagraph (C).

(C) Identify by category or categories the personal information  
12 of the consumer that the business disclosed for a business purpose  
13 in the preceding 12 months by reference to the enumerated category  
14 or categories in subdivision (c) that most closely describes the  
15 personal information, and provide the categories of third parties  
16 to whom the consumer's personal information was disclosed for  
17 a business purpose in the preceding 12 months by reference to the  
18 enumerated category or categories in subdivision (c) that most  
19 closely describes the personal information disclosed. The business  
20 shall disclose the information in a list that is separate from a list

21 generated for the purposes of subparagraph (B).

(5) 22 Disclose the following information in its online privacy  
23 policy or policies if the business has an online privacy policy or  
24 policies and in any California-specific description of consumers'  
25 privacy rights, or if the business does not maintain those policies,  
26 on its Internet Web site, and update that information at least once  
every 12 months:

(A) A description of a consumer's rights pursuant to Sections 31  
1798.110, 1798.115, and 1798.125 and one or more designated  
32 methods for submitting requests.

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

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

(i) A list of the categories of personal information it has sold  
1 about consumers in the preceding 12 months by reference to the  
2 enumerated category or categories in subdivision (c) that most  
3 closely describe the personal information sold, or if the business  
4 has not sold consumers' personal information in the preceding 12  
5 months, the business shall disclose that fact.

(ii) A list of the categories of personal information it has  
6 disclosed about consumers for a business purpose in the preceding  
7 12 months by reference to the enumerated category in subdivision ~~(e)~~  
(c) that most closely describe the personal information disclosed,  
8 or if the business has not disclosed consumers' personal  
9 information for a business purpose in the preceding 12 months,  
10 the business shall disclose that fact.

(6) Ensure that all individuals responsible for handling consumer  
11 inquiries about the business's privacy practices or the business's  
12 compliance with

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13 Sections 1798.110, 1798.115, 1798.125, and this section, and how  
14 to direct consumers to exercise their rights under those sections.

(7) Use any personal information collected from the consumer

15 in connection with the business's verification of the consumer's  
16 request solely for the purposes of verification.

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

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

21 SEC. 8. Section 1798.135 of the Civil Code, as added by  
22 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
23 read:

24 1798.135. (a) A business that is required to comply with  
25 Section 1798.120 shall, in a form that is reasonably accessible to  
26 consumers:

(1) Provide a clear and conspicuous link on the business' s  
27 Internet homepage, titled "Do Not Sell My Personal Information,"  
28 to an Internet Web page that enables a consumer, or a person  
29 authorized by the consumer, to opt -out of the sale of the consumer's  
30 personal information. A business shall not require a consumer to  
31 create an account in order to direct the business not to sell the  
32 consumer's personal information.

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

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

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

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

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

(5) For a consumer who has opted -out of the sale of the  
11 consumer's personal information, respect the consumer's decision  
12 to opt -out for at least 12 months before requesting that the  
13 consumer authorize the sale of the consumer's personal  
14 information.

(6) Use any personal information collected from the consumer  
15 in connection with the submission of the consumer's opt-out  
16 request solely for the purposes of complying with the opt-out  
17 request.

(b) Nothing in this title shall be construed to require a business  
18 to comply with the title by including the required links and text  
19 on the homepage that the business makes available to the public  
20 generally, if the business maintains a separate and additional  
21 homepage that is dedicated to California consumers and that  
22 includes the required links and text, and the business takes  
23 reasonable steps to ensure that California consumers are directed

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25 made available to the public generally.

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

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1 SEC. 9. Section 1798.140 of the Civil Code, as added by  
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
3 read:

4 1798.140. For purposes of this title:

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

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

(c) “Business” means:

(1) A sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or

21 operated for the profit or financial benefit of its shareholders or  
22 other owners, that collects consumers' personal information, or  
23 on the behalf of which such information is collected and that alone,  
24 or jointly with others, determines the purposes and means of the  
25 processing of consumers' personal information, that does business  
26 in the State of California, and that satisfies one or more of the  
27 following thresholds:

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

(B) Alone or in combination, annually buys, receives for the  
30 business's commercial purposes, sells, or shares for commercial  
31 purposes, alone or in combination, the personal information of  
32 50,000 or more consumers, households, or devices.

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

(2) Any entity that controls or is controlled by a business, as  
1 defined in paragraph (1), and that shares common branding with  
2 the business. "Control" or "controlled" means ownership of, or  
3 the power to vote, more than 50 percent of the outstanding shares  
4 of any class of voting security of a business; control in any manner  
5 over the election of a majority of the directors, or of

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6 exercising similar functions; or the power to exercise a controlling  
7 influence over the management of a company. "Common branding"  
8 means a shared name, servicemark, or trademark.

(d) "Business purpose" means the use of personal information  
9 for the business's or a service provider's operational purposes, or  
10 other notified purposes, provided that the use of personal  
11 information shall be reasonably necessary and proportionate to  
12 achieve the operational purpose for which the personal information  
13 was collected or processed or for another operational purpose that  
14 is compatible with the context in which the personal information  
15 was collected. Business purposes are:

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

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

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

(4) Short-term, transient use, provided the personal information  
23 that is not disclosed to another third party and is not used to build  
24 a profile about a consumer or otherwise alter an individual

25 consumer’s experience outside the current interaction, including,  
26 but not limited to, the contextual customization of ads shown as  
27 part of the same interaction.

(5) Performing services on behalf of the business or service  
28 provider, including maintaining or servicing accounts, providing  
29 customer service, processing or fulfilling orders and transactions,  
30 verifying customer information, processing payments, providing  
31 financing, providing advertising or marketing services, providing  
32 analytic services, or providing similar services on behalf of the  
33 business or service provider.

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

(7) Undertaking activities to verify or maintain the quality or  
2 safety of a service or device that is owned, manufactured,  
3 manufactured for, or controlled by the business, and to improve,  
4 upgrade, or enhance the service or device that is owned,  
5 manufactured, manufactured for, or controlled by the business.

(e) “Collects,” “collected,” or “collection” means buying,  
6 renting, gathering, obtaining, receiving, or accessing any personal  
7 information pertaining to a consumer by any means. This includes  
8 receiving information from the consumer, either actively or  
9 passively, or by observing the consumer’s behavior.

(f) “Commercial purposes” means to advance a person’s  
10 commercial or economic interests, such as by inducing another  
11 person to buy, rent, lease, join, subscribe to, provide, or exchange  
12 products, goods, property, information, or services, or enabling or  
13 effecting, directly or indirectly, a

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14 “Commercial purposes” do not include for the purpose of engaging  
15 in speech that state or federal courts have recognized as  
16 noncommercial speech, including political speech and journalism.

(g) “Consumer” means a natural person who is a California  
17 resident, as defined in Section 17014 of Title 18 of the California  
18 Code of Regulations, as that section read on September 1, 2017,  
19 however identified, including by any unique identifier.

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

(1) Has implemented technical safeguards that prohibit  
23 reidentification of the consumer to whom the information may  
24 pertain.

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

- (3) Has implemented business processes to prevent inadvertent release of deidentified information.
- (4) Makes no attempt to reidentify the information.
- (i) “Designated methods for submitting requests” means a mailing address, email address, Internet Web page, Internet Web portal, toll-free telephone number, or other applicable contact information, whereby consumers may submit a request or direction

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- 1 under this title, and any new, consumer-friendly means of  
2 contacting a business, as approved by the Attorney General  
3 pursuant to Section 1798.185.
- (j) “Device” means any physical object that is capable of  
4 connecting to the Internet, directly or indirectly, or to another  
5 device.
- (k) “Health insurance information” means a consumer’s  
6 insurance policy number or subscriber identification number, any  
7 unique identifier used by a health insurer to identify the consumer,  
8 or any information in the consumer’s application and claims  
9 history, including any appeals records, if the information is linked  
10 or reasonably linkable to a consumer or household, including via  
11 a device, by a business or service provider.
- 12 ~~(H)~~ (L) “Homepage” means the introductory page of an Internet Web  
13 site and any Internet Web page where personal information is  
14 collected. In the case of an online service, such as a mobile  
15 application, homepage means the application’s platform page or  
16 download page, a link within the application, such as from the  
17 application configuration, “About,” “Information,” or settings  
18 page, and any other location that allows consumers to review the  
19 notice required by subdivision (a) of Section 1798.145, including,  
20 but not limited to, before downloading the application.
- (m) “Infer” or “inference” means the derivation of information,  
21 data, assumptions, or conclusions from facts, evidence, or another  
22 source of information or data.
- (n) “Person” means an individual, proprietorship, firm,  
23 partnership, joint venture, syndicate, business trust, company,  
24 corporation, limited liability company, association, committee,  
25 and any other organization or group of persons acting in concert.

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- (o) ~~(H)~~ (1) “Personal information” means information that identifies,  
26 relates to, describes, is capable of being associated with, or could  
27 reasonably be linked, directly or indirectly, with a particular  
28 consumer or household. Personal information includes, but is not  
29 limited to, the following if it identifies, relates to, describes, is  
30 capable of being associated with, or could be reasonably linked,  
31 directly or indirectly, with a particular consumer or household:
- (A) Identifiers such as a real name, alias, postal address, unique  
32 personal identifier, online identifier, Internet Protocol address,  
33 email address, account name, social security number, driver’s  
34 license number, passport number, or other similar identifiers.

- (B) Any categories of personal information described in 1 subdivision (e) of Section 1798.80.
- (C) Characteristics of protected classifications under California 2 or federal law.
- (D) Commercial information, including records of personal 3 property, products or services purchased, obtained, or considered, 4 or other purchasing or consuming histories or tendencies.
- (E) Biometric information.
- (F) Internet or other electronic network activity information, 5 including, but not limited to, browsing history, search history, and 6 information regarding a consumer's interaction with an Internet 7 Web site, application, or advertisement.
- (G) Geolocation data.
- (H) Audio, electronic, visual, thermal, olfactory, or similar 8 information.
- (I) Professional or employment-related information.
- (J) Education information, defined as information that is not 9 publicly available personally identifiable information as defined 10 in the Family Educational Rights and Privacy Act (20 U.S.C. 11 section 1232g, 34 C.F.R. Part 99).
- (K) Inferences drawn from any of the information identified in 12 this subdivision to create a profile about a consumer reflecting the 13 consumer's preferences, characteristics, psychological trends, ~~preferences,~~ 14 predispositions, behavior, attitudes, intelligence, abilities, and 15 aptitudes.
- (2) "Personal information" does not include publicly available 16 information. For these purposes, "publicly available" means 17 information that is lawfully made available from federal, state, or 18 local government records, if any conditions associated with such 19 information. "Publicly available" does not mean biometric 20 information collected by a business about a consumer without the 21 consumer's knowledge. Information is not "publicly available" if 22 that data is used for a purpose that is not compatible with the 23 purpose for which the data is maintained and made available in 24 the government records or for which it is publicly maintained. 25 "Publicly available" does not include consumer information that 26 is deidentified or aggregate consumer information.
- (p) ~~(e)~~ "Probabilistic identifier" means the identification of a 27 consumer or a device to a degree of certainty of more probable 28 than not based on any categories of personal information included

1 in, or similar to, the categories enumerated in the definition of 2 personal information.

- (q) ~~(p)~~ "Processing" means any operation or set of operations that 3 are performed on personal data or on sets of personal data, whether 4 or not by automated means.
- (r) ~~(q)~~ "Pseudonymize" or "Pseudonymization" means the

5 processing of personal information in a manner that renders the  
6 personal information no longer attributable to a specific consumer  
7 without the use of additional information, provided that the  
8 additional information is kept separately and is subject to technical  
9 and organizational measures to ensure that the personal information  
10 is not attributed to an identified or identifiable consumer.

(s) ~~(+)~~ “Research” means scientific, systematic study and  
11 observation, including basic research or applied research that is in  
12 the public interest and that adheres to all other applicable ethics  
13 and privacy laws or studies conducted in the public interest in the  
14 area of public health. Research with personal information that may  
15 have been collected from a consumer in the course of the  
16 consumer’s interactions with a business’s s service or device for  
17 other purposes shall be:

- (1) Compatible with the business purpose for which the personal  
18 information was collected.
- (2) Subsequently pseudonymized and deidentified, or  
19 deidentified and in the aggregate, such that the information cannot  
20 reasonably identify, relate to, describe, be capable of being  
21 associated with, or be linked, directly or indirectly, to a particular  
22 consumer.
- (3) Made subject to technical safeguards that prohibit  
23 reidentification of the consumer to whom the information may  
24 pertain.
- (4) Subject to business processes that specifically prohibit  
25 reidentification of the information.
- (5) Made subject to business processes to prevent inadvertent  
26 release of deidentified information.
- (6) Protected from any reidentification attempts.
- (7) Used solely for research purposes that are compatible with  
27 the context in which the personal information was collected.
- (8) Not be used for any commercial purpose.
- (9) Subjected by the business conducting the research to  
28 additional security controls limit access to the research data to only

1 those individuals in a business as are necessary to carry out the  
2 research purpose.

(t) ~~(+)~~ ~~(1)~~ “Sell,” “selling,” “sale,” or “sold,” means selling, renting,  
3 releasing, disclosing, disseminating, making available, transferring,  
4 or otherwise communicating orally, in writing, or by electronic or  
5 other means, a consumer’s personal information by the business  
6 to another business or a third party for monetary or other valuable  
7 consideration.

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

- (A) A consumer uses or directs the business to intentionally  
9 disclose personal information or uses the business to intentionally  
10 interact with a third party, provided the third party does not also  
11 sell the personal information, unless that disclosure would be  
12 consistent with the provisions of this title. An intentional interaction  
13 occurs when the consumer intends

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14 via one or more deliberate interactions. Hovering over, muting,  
15 pausing, or closing a given piece of content does not constitute a  
16 consumer’s intent to interact with a third party.

17 (B) The business uses or shares an identifier for a consumer  
18 who has opted out of the sale of the consumer’s personal  
19 information for the purposes of alerting third parties that the  
20 consumer has opted out of the sale of the consumer’s personal  
information.

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

24 (i) The business has provided notice that information being used  
25 or shared in its terms and conditions consistent with Section 30  
26 1798.135.

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

30 (D) The business transfers to a third party the personal  
31 information of a consumer as an asset that is part of a merger,  
32 acquisition, bankruptcy, or other transaction in which the third  
33 party assumes control of all or part of the business, provided that  
34 information is used or shared consistently with Sections 1798.110  
35 and 1798.115. If a third party materially alters how it uses or shares  
36 the personal information of a consumer in a manner that is  
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1 materially inconsistent with the promises made at the time of  
2 collection, it shall provide prior notice of the new or changed  
3 practice to the consumer. The notice shall be sufficiently prominent  
4 and robust to ensure that existing consumers can easily exercise  
5 their choices consistently with Section 1798.120. This  
6 subparagraph does not authorize a business to make material,  
7 retroactive privacy policy changes or make other changes in their  
8 privacy policy in a manner that would violate the Unfair and  
9 Deceptive Practices Act (Chapter 5 (commencing with Section ~~17200-~~  
10 ~~17200)~~ of Part 2 of Division 7 of the Business and Professions  
Code).

11 (u) ~~(s)~~ “Service” or “services” means work, labor, and services,  
12 including services furnished in connection with the sale or repair  
of goods.

13 (v) ~~(t)~~ “Service provider” means a sole proprietorship, partnership,  
14 limited liability company, corporation, association, or other legal  
15 entity that is organized or operated for the profit or financial benefit  
of its shareholders or other owners, that processes information on

16 behalf of a business and to which the business discloses a  
17 consumer's personal information for a business purpose pursuant  
18 to a written contract, provided that the contract prohibits the entity  
19 receiving the information from retaining, using, or disclosing the  
20 personal information for any purpose other than for the specific  
21 purpose of performing the services specified in the contract for  
22 the business, or as otherwise permitted by this title, including  
23 retaining, using, or disclosing the personal information for a  
24 commercial purpose other than providing the services specified in  
25 the contract with the business.

(w) ~~(w)~~ "Third party" means a person who is not any of the  
26 following:

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

(2) (A) A person to whom the business discloses a consumer's  
28 personal information for a business purpose pursuant to a written  
29 contract, provided that the contract:

(i) ~~(A)~~ Prohibits the person receiving the personal information from:

(I) ~~(i)~~ Selling the personal information.

(II) ~~(ii)~~ Retaining, using, or disclosing the personal information for  
30 any purpose other than for the specific purpose of performing the  
31 services specified in the contract, including retaining, using, or

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1 disclosing the personal information for a commercial purpose other  
2 than providing the services specified in the contract.

(III) ~~(iii)~~ Retaining, using, or disclosing the information outside of  
3 the direct business relationship between the person and the  
4 business.

(ii) ~~(B)~~ Includes a certification made by the person receiving the  
5 personal information that the person understands the restrictions  
6 in subparagraph (A) and will comply with them.

(B) A person covered by this paragraph ~~(2)~~ that violates any of the  
7 restrictions set forth in this title shall be liable for the violations.  
8 A business that discloses personal information to a person covered  
9 by this paragraph ~~(2)~~ in compliance with this paragraph ~~(2)~~ shall not be  
10 liable under this title if the person receiving the personal  
11 information uses it in violation of the restrictions set forth in this  
12 title, provided that, at the time of disclosing the personal  
13 information, the business does not have actual knowledge, or  
14 reason to believe, that the person intends to commit such a  
15 violation.

(x) "Unique identifier" or "Unique personal identifier" means  
16 a persistent identifier that can be used to recognize a consumer, a  
17 family, or a device that is linked to a consumer or family, over  
18 time and across different services, including, but not limited to, a  
19 device identifier; an Internet Protocol address; cookies, beacons,  
20 pixel tags, mobile ad identifiers, or similar technology; customer  
21 number, unique pseudonym, or user alias; telephone numbers, or  
22 other forms of persistent or probabilistic identifiers that can be  
23 used to identify a particular consumer or device. For purposes of

24 this subdivision, “family” means a custodial parent or guardian  
25 and any minor children over which the parent or guardian has  
26 custody.

(y) “Verifiable consumer request” means a request that is made  
27 by a consumer, by a consumer on behalf of the consumer’s minor  
28 child, or by a natural person or a person registered with the  
29 Secretary of State, authorized by the consumer to act on the  
30 consumer’s behalf, and that the business can reasonably verify,  
31 pursuant to regulations adopted by the Attorney General pursuant  
32 to paragraph (7) of subdivision (a) of Section 1798.185 to be the  
33 consumer about whom the business has collected personal  
34 information. A business is not obligated to provide information to  
35 the consumer pursuant to Sections 1798.110 and 1798.115 if the

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1 business cannot verify, pursuant this subdivision and regulations  
2 adopted by the Attorney General pursuant to paragraph (7) of  
3 subdivision (a) of Section 1798.185, that the consumer making  
4 the request is the consumer about whom the business has collected

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5 information or is a person authorized by the consumer to act on  
6 such consumer’s behalf.

7 SEC. 10. Section 1798.145 of the Civil Code, as added by  
8 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
9 read:

10 1798.145. (a) The obligations imposed on businesses by this  
11 title shall not restrict a business’s ability to:

- 12 (1) Comply with federal, state, or local laws.
- 13 (2) Comply with a civil, criminal, or regulatory inquiry,  
14 investigation, subpoena, or summons by federal, state, or local  
15 authorities.
- 16 (3) Cooperate with law enforcement agencies concerning  
17 conduct or activity that the business, service provider, or third  
18 party reasonably and in good faith believes may violate federal,  
19 state, or local law.
- 20 (4) Exercise or defend legal claims.
- 21 (5) Collect, use, retain, sell, or disclose consumer information  
22 that is deidentified or in the aggregate consumer information.
- 23 (6) Collect or sell a consumer’s personal information if every  
24 aspect of that commercial conduct takes place wholly outside of  
25 California. For purposes of this title, commercial conduct takes  
26 place wholly outside of California if the business collected that  
27 information while the consumer was outside of California, no part  
28 of the sale of the consumer’s personal information occurred in  
29 California, and no personal information collected while the  
consumer was in California is sold. This paragraph shall not permit  
a business from storing, including on a device, personal information  
about a consumer when the consumer is in California and then  
collecting that personal information when the consumer and stored  
personal information is outside of California.

(b) The obligations imposed on businesses by Sections 1798.110  
to 1798.135, inclusive, shall not apply where compliance by the

30 business with the title would violate an evidentiary privilege under  
31 California law and shall not prevent a business from providing the  
32 personal information of a consumer to a person covered by an

1 evidentiary privilege under California law as part of a privileged  
2 communication.

(c) (1) This ~~act~~ title shall not apply to ~~protected or health~~ any of the following:

(A) Medical information that is collected by a covered entity governed by the Confidentiality of  
3 Medical Information Act (Part 2.6 (commencing with Section 56 )  
4 of Division 1) ~~or or protected health information that is collected by~~  
5 a covered entity or business associate governed by the privacy,  
6 security, and breach notification rules issued by the ~~federal~~ United States  
7 Department of Health and Human Services, Parts 160 and 164 of  
8 Title 45 of the Code of Federal Regulations, established pursuant  
9 to the Health Insurance Portability and ~~Availability Act of 1996~~ Accountability Act of 1996  
10 (Public Law 104-191) and the Health Information Technology for  
11 Economic and Clinical Health Act (Public Law 111-5).

(B) A provider of health care governed by the Confidentiality  
12 of Medical Information Act (Part 2.6 (commencing with Section  
13 56) of Division 1) or a covered entity governed by the privacy,  
14 security, and breach notification rules issued by the United States  
15 Department of Health and Human Services, Parts 160 and 164 of  
16 Title 45 of the Code of Federal Regulations, established pursuant  
17 to the Health Insurance Portability and Accountability Act of 1996  
18 (Public Law 104-191), to the extent the provider or covered entity  
19 maintains patient information in the same manner as medical  
20 information or protected health information as described in  
21 subparagraph (A) of this section.

~~(B)~~  
(C) Information collected as part of a clinical trial subject to the  
26 Federal Policy for the Protection of Human Subjects, also known  
27 as the Common Rule, pursuant to good clinical practice guidelines  
28 issued by the International Council for Harmonisation or pursuant  
29 to human subject protection requirements of the United States  
30 Food and Drug Administration.

(2) For purposes of this subdivision, the ~~definition~~ definitions of “medical  
31 information” and “provider of health care” in Section 56.05 shall  
32 apply and the definitions of “business associate,” “covered entity,”  
33 and “protected health information” ~~and “covered entity” from the federal privacy rule in Section~~  
34 160.103 of Title 45 shall apply.

(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

1 Code, and use of that information is limited by the federal Fair  
2 Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

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

regulations, or the California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050) of the Financial Code). This subdivision shall not apply to Section 1798.150.

(f) This title shall not apply to personal information collected, processed, sold, or disclosed pursuant to the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.), ~~if it is in conflict with that act.~~ This section subdivision shall not apply to Section 1798.150.

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

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

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

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

(h) A business that discloses personal information to a service provider shall not be liable under this title if the service provider receiving the personal information uses it in violation of the restrictions set forth in the title, provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the service provider

intends to commit such a violation. A service provider shall likewise not be liable under this title for the obligations of a business for which it provides services as set forth in this title.

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

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

(k) The rights afforded to consumers and the obligations

8 imposed on any business under this title shall not apply to the  
9 extent that they infringe on the noncommercial activities of a  
10 person or entity described in subdivision (b) of Section 2 of Article  
11 I of the California Constitution.

12 SEC. 11. Section 1798.150 of the Civil Code, as added by  
13 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
14 read:

15 1798.150. (a) (1) Any consumer whose nonencrypted or  
16 nonredacted personal information, as defined in subparagraph (A)  
17 of paragraph (1) of subdivision (d) of Section 1798.81.5, is subject  
18 to an unauthorized access and exfiltration, theft, or disclosure as  
19 a result of the business's violation of the duty to implement and  
20 maintain reasonable security procedures and practices appropriate  
21 to the nature of the information to protect the personal information  
22 may institute a civil action for any of the following:

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

(B) Injunctive or declaratory relief.

(C) Any other relief the court deems proper.

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

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

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(1) ~~Prior if, prior~~ to initiating any action against a business for  
1 statutory damages on an individual or class-wide basis, a consumer  
2 ~~shall provide~~ *provides* a business 30 days' written notice  
3 identifying the specific provisions of this title the consumer alleges  
4 have been or are being violated. In the event a cure is possible, if  
5 within the 30 days the business actually cures the noticed violation  
6 and provides the consumer an express written statement that the  
7 violations have been cured and that no further violations shall  
8 occur, no action for individual statutory damages or class-wide  
9 statutory damages may be initiated against the business. No notice  
10 shall be required prior to an individual consumer initiating an  
11 action solely for actual pecuniary damages suffered as a result of  
12 the alleged violations of this title. If a business continues to violate  
13 this title in breach of the express written statement provided to the  
14 consumer under this section, the consumer may initiate an action  
15 against the business to enforce the written statement and may  
16 pursue statutory damages for each breach of the express written  
17 statement, as well as any other violation of the title that postdates  
18 the written statement.

(2) ~~A consumer bringing an action as defined in paragraph (1) of subdivision (c) shall notify the Attorney~~

19 ~~General within 30 days that the action has been filed.~~

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

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

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

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

(c) The cause of action established by this section shall apply only to violations as defined in subdivision (a) and shall not be  
(e) based on violations of any other section of this title. Nothing in this ~~act~~ title shall be interpreted to serve as the basis for a private right of action under any other law. This shall not be construed to

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30 any party from any duties or obligations imposed under other law  
31 or the United States or California Constitution.

1 SEC. 12. Section 1798.155 of the Civil Code, as added by  
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
3 read:

4 1798.155. (a) Any business or third party may seek the opinion  
5 of the Attorney General for guidance on how to comply with the  
6 provisions of this title.

(b) ~~(a)~~ A business shall be in violation of this title if it fails to cure  
7 any alleged violation within 30 days after being notified of alleged  
8 noncompliance. Any business, service provider, or other person  
9 that violates this title shall be subject to an injunction and liable  
10 for a civil penalty ~~as provided in Section 17206 of the Business and Professions Code~~ of not more than  
two thousand five hundred

11 dollars (\$2,500) for each violation or seven thousand five hundred  
12 dollars (\$7,500) for each intentional violation, which shall be  
13 assessed and recovered in a civil action brought in the name of the  
14 people of the State of California by the Attorney General. The civil  
15 penalties provided for in this section shall be exclusively assessed  
16 and recovered in a civil action brought in the name of the people  
17 of the State of California by the Attorney General.

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

(c) ~~Notwithstanding Section 17206 of the Business and Professions Code, any~~ Any civil penalty assessed pursuant to ~~Section 17206~~ for a violation of this title, and

18 the proceeds of any settlement of an action brought pursuant to  
19 subdivision (a), shall be allocated as follows: (1) Twenty percent to deposited in the Consumer  
Privacy Fund,  
20 created within the General Fund pursuant to subdivision (a) of ~~Section 1798.109, with the intent to~~  
~~fully offset any costs incurred by the state courts and the Attorney General in connection with this title.~~

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

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

~~1798.160. (a) A special fund to be known as the "Consumer Privacy Fund" is hereby created within the General Fund in the State Treasury, and is available upon appropriation by the Legislature to offset any costs incurred by the state courts in connection with actions brought to enforce this title and any costs incurred by the Attorney General in carrying out the Attorney General's duties under this title.~~

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

21 Section 1798.160 with the intent to fully offset any costs incurred  
22 by the state courts and the Attorney General in connection with  
23 this title.

24 SEC. 13. Section 1798.185 of the Civil Code, as added by

25 ~~1798.175. This title is intended to further the constitutional right of privacy and to supplement existing laws relating to consumers' personal information, including, but not limited to, Chapter 22 (commencing with Section 22575) of Division 8 of the Business and Professions Code and Title 1.81 (commencing with Section 1798.80). The provisions of this title are not limited to information collected electronically or over the Internet, but apply to the collection and sale of all personal information collected by a business from consumers. Wherever possible, law relating to consumers' personal information should be construed to harmonize with the provisions of this title, but in the event of a conflict between other laws and the provisions of this title, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.~~ Section 3 of Chapter 55 of the Statutes of 2018, is amended to

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

26 read:

27 1798.185. (a) On or before ~~January~~ July 1, 2020, the Attorney General  
28 shall solicit broad public participation ~~to~~ and adopt regulations to  
29 further the purposes of this title, including, but not limited to, the  
30 following areas:

(1) Updating as needed additional categories of personal  
31 information to those enumerated in subdivision (c) of Section  
32 1798.130 and subdivision ~~(e)~~ (o) of Section 1798.140 in order to  
33 address changes in technology, data collection practices, obstacles  
34 to implementation, and privacy concerns.

(2) Updating as needed the definition of unique identifiers to  
35 address changes in technology, data collection, obstacles to  
36 implementation, and privacy concerns, and additional categories

1 to the definition of designated methods for submitting requests to  
2 facilitate a consumer’s ability to obtain information from a business  
3 pursuant to Section 1798.130.

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

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

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

(B) To govern business compliance with a consumer’s opt-out  
9 request.

(C) ~~The~~For the development and use of a recognizable and uniform  
10 opt-out logo or button by all businesses to promote consumer  
11 awareness of the opportunity to opt u out of the sale of personal  
12 information.

(5) Adjusting the monetary threshold in subparagraph (A) of  
13 paragraph ~~(1)~~ (1) of subdivision ~~(b)~~ (c) of Section ~~1798.106~~ 1798.140 in January  
14 of every odd-numbered year to reflect any increase in the Consumer  
15 Price Index.

(6) Establishing rules, procedures, and any exceptions necessary  
16 to ensure that the notices and information that businesses are  
17 required to provide pursuant to this title are provided in a manner  
18 that may be easily understood

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19 accessible to consumers with disabilities, and are available in the  
20 language primarily used to interact with the consumer, including  
21 establishing rules and guidelines regarding financial incentive  
22 offerings, within one year of passage of this title and as needed  
23 thereafter.

(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’s s determination that a request for information  
30 received by a consumer is a verifiable consumer request, including  
31 treating a request submitted through a password-protected account  
32 maintained by the consumer with the business while the consumer

1 is logged into the account as a verifiable consumer request and  
 2 providing a mechanism for a consumer who does not maintain an  
 3 account with the business to request information through the  
 4 business's authentication of the consumer's identity, within one  
 5 year of passage of this title and as needed thereafter.

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

(c) ~~1798.190. If a series of steps or transactions were component parts of a single transaction intended from  
 the beginning to be taken with the intention of avoiding the reach of this title, including the disclosure of  
 information by a business to a third party in order to avoid the definition of sell, a court shall disregard  
 the intermediate steps or transactions for purposes of effectuating the purposes of this title.~~ The  
Attorney General shall not bring an enforcement action

7 under this title until six months after the publication of the final  
8 regulations issued pursuant to this section or July 1, 2020,  
9 whichever is sooner.

10 SEC. 14. Section 1798.192 of the Civil Code, as added by  
11 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
12 read:

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

22 SEC. 15. Section 1798.196 of the Civil Code, as added by  
23 1798.194. This title shall be liberally construed to effectuate its purposes. Section 3 of Chapter 55 of  
the Statutes of 2018, is amended to  
24 read:

25 1798.196. This title is intended to supplement federal and state  
 26 law, if permissible, but shall not apply if such application is  
 27 preempted by, or in conflict with, federal law or the United States  
 28 or California Constitution.

29 SEC. 16. Section 1798.198 of the Civil Code, as added by  
30 Section 3 of Chapter 55 of the Statutes of 2018, is amended to  
31 read:

32 1798.198. (a) Subject to limitation provided in subdivision

33 (b), and in Section 1798.199, this title shall be operative January  
 36 1, 2020.

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

1 ~~SEC. 4. (a) The provisions of this bill are severable. If any provision of this bill or its application is held~~  
~~invalid, that invalidity shall not affect~~ 17. Section 1798.199 is added to the Civil Code, to read:  
 2 1798.199. Notwithstanding Section 1798.198, Section 1798.180

3 shall be operative on the effective date of the act adding this  
4 section.

5 SEC. 18. This act is an urgency statute necessary for the  
6 immediate preservation of the public peace, health, or safety within  
7 the meaning of Article IV of the California Constitution and shall  
8 go into immediate effect. The facts constituting the necessity are:

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~~other provisions or applications that can be given effect without the invalid-  
provision or application~~

9 In order to prevent the confusion created by the enactment of  
10 conflicting local laws regarding the collection and sale of  
personal  
11 information, it is necessary that this act take immediate effect.

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Split/Merged cell	
Padding cell	

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Moved to	15
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