

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.100

§ 1798.100. Consumer rights regarding personal information collection by businesses; disclosure; information requests; retention of personal information collected for single, one-time use transaction

Effective: January 1, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.100 operative Jan. 1, 2023.>

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

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

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

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

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

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 1, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 1, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.100, CA CIVIL § 1798.100

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.105

§ 1798.105. Consumer rights regarding deletion of personal information
collected by businesses; disclosure; deletion requests; exceptions

Effective: January 1, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.105 operative Jan. 1, 2023.>

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

(b) A business that collects personal information about consumers shall disclose, pursuant to [Section 1798.130](#), the consumer's rights to request the deletion of the consumer's personal information.

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

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

(1) Complete the transaction for which the personal information was collected, fulfill the terms of a written warranty or product recall conducted in accordance with federal law, provide a good or service requested by the consumer, or reasonably anticipated within the context of a business' ongoing business relationship with the consumer, or otherwise perform a contract between the business and the consumer.

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

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

(4) Exercise free speech, ensure the right of another consumer to exercise that consumer's right of free speech, or exercise another right provided for by law.

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

(6) Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the business' deletion of the information is likely to render impossible or seriously impair the achievement of such research, if the consumer has provided informed consent.

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

(8) Comply with a legal obligation.

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

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 2, eff. Sept. 23, 2018, operative Jan. 1, 2020; [Stats.2019, c. 751 \(A.B.1146\)](#), § 1, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.105, CA CIVIL § 1798.105

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.110

§ 1798.110. Businesses collecting personal information; consumer rights regarding disclosure of categories and uses of personal information; duties of business

Effective: January 1, 2020 to December 31, 2022
Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.110 operative Jan. 1, 2023.>

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

- (1) The categories of personal information it has collected about that consumer.
- (2) The categories of sources from which the personal information is collected.
- (3) The business or commercial purpose for collecting or selling personal information.
- (4) The categories of third parties with whom the business shares personal information.
- (5) The specific pieces of personal information it has collected about that consumer.

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

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

- (1) The categories of personal information it has collected about consumers.
- (2) The categories of sources from which the personal information is collected.

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

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

(5) That a consumer has the right to request the specific pieces of personal information the business has 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 for a single one-time transaction if, in the ordinary course of business, that information about the consumer is not retained.

(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.

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 3, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 2, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.110, CA CIVIL § 1798.110

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.115

§ 1798.115. Businesses selling personal information or disclosing for business purpose; consumer rights regarding disclosure of categories and uses of personal information; duties of business

Effective: January 1, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.115 operative Jan. 1, 2023.>

(a) A consumer shall have the right to request that a business that sells the consumer's personal information, or that discloses it for a business purpose, disclose to that consumer:

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

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

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

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

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

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

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

(d) A third party shall not sell personal information about a consumer that has been sold to the third party by a business unless the consumer has received explicit notice and is provided an opportunity to exercise the right to opt-out pursuant to [Section 1798.120](#).

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 4, eff. Sept. 23, 2018, operative Jan. 1, 2020; [Stats.2019, c. 757 \(A.B.1355\)](#), § 3, eff. Jan. 1, 2020.)

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.120

§ 1798.120. Consumer right to opt-out; notice to consumer; sale of personal information prohibited; consumers less than 16 years of age

Effective: January 1, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.120 operative Jan. 1, 2023.>

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

(b) A business that sells consumers' personal information to third parties shall provide notice to consumers, pursuant to [subdivision \(a\) of Section 1798.135](#), that this information may be sold and that consumers have the “right to opt-out” of the sale of their personal information.

(c) Notwithstanding subdivision (a), a business shall not sell the personal information of consumers if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, in the case of consumers at least 13 years of age and less than 16 years of age, or the consumer's parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized the sale of the consumer's personal information. A business that willfully disregards the consumer's age shall be deemed to have had actual knowledge of the consumer's age. This right may be referred to as the “right to opt-in.”

(d) 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.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 5, eff. Sept. 23, 2018, operative Jan. 1, 2020; [Stats.2019, c. 757 \(A.B.1355\)](#), § 4, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.120, CA CIVIL § 1798.120

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.125

§ 1798.125. Discrimination prohibited; financial incentives

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.125 operative Jan. 1, 2023.>

(a)(1) A business shall not discriminate against a consumer because the consumer exercised any of the consumer's 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, including through the use of discounts or other benefits or imposing penalties.

(C) Providing a different level or quality of goods or services to the consumer.

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

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

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

(2) A business that offers any financial incentives pursuant to this subdivision shall notify consumers of the financial incentives pursuant to [Section 1798.130](#).

(3) A business may enter a consumer into a financial incentive program only if the consumer gives the business prior opt-in consent pursuant to Section 1798.130 that clearly describes the material terms of the financial incentive program, and which may be revoked by the consumer at any time.

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

Credits


(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 6, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 5, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.125, CA CIVIL § 1798.125

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Proposed Legislation

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.130

§ 1798.130. Businesses collecting personal information; compliance requirements

Effective: September 25, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.130 operative Jan. 1, 2023.>

(a) In order to comply with [Sections 1798.100](#), [1798.105](#), [1798.110](#), [1798.115](#), and [1798.125](#), a business shall, in a form that is reasonably accessible to consumers:

(1)(A) Make available to consumers two or more designated methods for submitting requests for information required to be disclosed pursuant to [Sections 1798.110](#) and [1798.115](#), including, at a minimum, a toll-free telephone number. A business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information shall only be required to provide an email address for submitting requests for information required to be disclosed pursuant to [Sections 1798.110](#) and [1798.115](#).

(B) If the business maintains an internet website, make the internet website available to consumers to submit requests for information required to be disclosed pursuant to [Sections 1798.110](#) and [1798.115](#).

(2) Disclose and deliver the required information to a consumer free of charge within 45 days of receiving a verifiable consumer request from the consumer. The business shall promptly take steps to determine whether the request is a verifiable consumer request, but this shall not extend the business' duty to disclose and deliver the information within 45 days of receipt of the consumer's request. The time period to provide the required information may be extended once by an additional 45 days when reasonably necessary, provided the consumer is provided notice of the extension within the first 45-day period. The disclosure shall cover the 12-month period preceding the business' receipt of the verifiable consumer request and shall be made in writing and delivered through the consumer's account with the business, if the consumer maintains an account with the business, or by mail or electronically at the consumer's option if the consumer does not maintain an account with the business, in a readily useable format that allows the consumer to transmit this information from one entity to another entity without hindrance. The business may require authentication of the consumer that is reasonable in light of the nature of the personal information requested, but shall not require the consumer to create an account with the business in order to make a verifiable consumer request. If the consumer maintains an account with the business, the business may require the consumer to submit the request through that account.

(3) For purposes of [subdivision \(b\) of Section 1798.110](#):

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

(B) Identify by category or categories the personal information collected about the consumer in the preceding 12 months by reference to the enumerated category or categories in subdivision (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 provided by the consumer in the verifiable consumer request to any personal information previously collected by the business about the consumer.

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

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

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

(A) A description of a consumer's rights pursuant to [Sections 1798.100, 1798.105, 1798.110, 1798.115, and 1798.125](#) and one or more designated methods for submitting requests.

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

(C) For purposes of [paragraphs \(1\) and \(2\) of subdivision \(c\) of Section 1798.115](#), two separate lists:

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

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

(D) In the case of a business that sells or discloses deidentified patient information not subject to this title pursuant to [clause \(i\) of subparagraph \(A\) of paragraph \(4\) of subdivision \(a\) of Section 1798.146](#), whether the business sells or discloses deidentified patient information derived from patient information and if so, whether that patient information was deidentified pursuant to one or more of the following:

(i) The deidentification methodology described in [Section 164.514\(b\)\(1\) of Title 45 of the Code of Federal Regulations](#), commonly known as the HIPAA expert determination method.

(ii) The deidentification methodology described in [Section 164.514\(b\)\(2\) of Title 45 of the Code of Federal Regulations](#), commonly known as the HIPAA safe harbor method.

(6) Ensure that all individuals responsible for handling consumer inquiries about the business' privacy practices or the business' compliance with this title are informed of all requirements in [Sections 1798.100, 1798.105, 1798.110, 1798.115, and 1798.125](#), and this section, and how to direct consumers to exercise their rights under those sections.

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

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

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

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 7, eff. Sept. 23, 2018, operative Jan. 1, 2020; [Stats.2019, c. 757 \(A.B.1355\)](#), § 6, eff. Jan. 1, 2020; [Stats.2019, c. 759 \(A.B.1564\)](#), § 1, eff. Jan. 1, 2020; [Stats.2019, c. 763 \(A.B.25\)](#), § 1.3, eff. Jan. 1, 2020; [Stats.2020, c. 172 \(A.B.713\)](#), § 1, eff. Sept. 25, 2020.)

West's Ann. Cal. Civ. Code § 1798.130, CA CIVIL § 1798.130

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Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.135

§ 1798.135. Businesses subject to consumer right to opt-out; compliance requirements

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.135 operative Jan. 1, 2023.>

(a) A business that is required to comply with [Section 1798.120](#) shall, in a form that is reasonably accessible to consumers:

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

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

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

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

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

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

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

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

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

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 8, eff. Sept. 23, 2018, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.135, CA CIVIL § 1798.135

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Proposed Legislation

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Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.140

§ 1798.140. Definitions

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.140 operative Jan. 1, 2023.>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Has implemented business processes that specifically 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 under this title, and any new, consumer-friendly means of contacting a business, as approved by the Attorney General pursuant to [Section 1798.185](#).

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

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

(l) “Homepage” means the introductory page of an internet website and any internet web page where personal information is collected. In the case of an online service, such as a mobile application, homepage means the application’s platform page or download page, a link within the application, such as from the application configuration, “About,” “Information,” or settings page, and any other location that allows consumers to review the notice required by [subdivision \(a\) of Section 1798.135](#), including, but not limited to, before downloading the application.

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

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

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

(A) Identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, internet protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers.

(B) Any categories of personal information described in [subdivision \(e\) of Section 1798.80](#).

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

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

(E) Biometric information.

(F) Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer's interaction with an internet website, application, or advertisement.

(G) Geolocation data.

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

(I) Professional or employment-related information.

(J) Education information, defined as information that is not publicly available personally identifiable information as defined in the Family Educational Rights and Privacy Act ([20 U.S.C. Sec. 1232g](#); 34 C.F.R. Part 99).

(K) Inferences drawn from any of the information identified in this subdivision to create a profile about a consumer reflecting the consumer's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.

(2) “Personal information” does not include publicly available information. For purposes of this paragraph, “publicly available” means information that is lawfully made available from federal, state, or local government records. “Publicly available” does not mean biometric information collected by a business about a consumer without the consumer's knowledge.

(3) “Personal information” does not include consumer information that is deidentified or aggregate consumer information.

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

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

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

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

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

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

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

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

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

(6) Protected from any reidentification attempts.

(7) Used solely for research purposes that are compatible with 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 additional security controls that limit access to the research data to only those individuals in a business as are necessary to carry out the research purpose.

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

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

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

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

(C) The business uses or shares with a service provider personal information of a consumer that is necessary to perform a business purpose if both of the following conditions are met:

(i) The business has provided notice of that information being used or shared in its terms and conditions consistent with [Section 1798.135](#).

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

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

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

(v) “Service provider” means a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners, that processes information on behalf of a business and to which the business discloses a consumer's personal information for a business purpose pursuant to a written contract, provided that the contract prohibits the entity receiving the information from retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services specified in the contract for the business, or as otherwise permitted by this title, including retaining, using, or disclosing the personal information for a commercial purpose other than providing the services specified in the contract with the business.

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

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

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

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

(I) Selling the personal information.

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

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

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

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

(x) “Unique identifier” or “Unique personal identifier” means a persistent identifier that can be used to recognize a consumer, a family, or a device that is linked to a consumer or family, over time and across different services, including, but not limited to, a device identifier; an Internet Protocol address; cookies, beacons, pixel tags, mobile ad identifiers, or similar technology; customer number, unique pseudonym, or user alias; telephone numbers, or other forms of persistent or probabilistic identifiers

that can be used to identify a particular consumer or device. For purposes of this subdivision, “family” means a custodial parent or guardian and any minor children over which the parent or guardian has custody.


(y) “Verifiable consumer request” means a request that is made by a consumer, by a consumer on behalf of the consumer's minor child, or by a natural person or a person registered with the Secretary of State, authorized by the consumer to act on the consumer's behalf, and that the business can reasonably verify, pursuant to regulations adopted by the Attorney General pursuant to [paragraph \(7\) of subdivision \(a\) of Section 1798.185](#) to be the consumer about whom the business has collected personal information. A business is not obligated to provide information to the consumer pursuant to [Sections 1798.100, 1798.105, 1798.110, and 1798.115](#) if the business cannot verify, pursuant to this subdivision and regulations adopted by the Attorney General pursuant to [paragraph \(7\) of subdivision \(a\) of Section 1798.185](#), that the consumer making the request is the consumer about whom the business has collected information or is a person authorized by the consumer to act on such consumer's behalf.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 9, eff. Sept. 23, 2018, operative Jan. 1, 2020; [Stats.2019, c. 748 \(A.B.874\)](#), § 1, eff. Jan. 1, 2020; [Stats.2019, c. 757 \(A.B.1355\)](#), § 7.5, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.140, CA CIVIL § 1798.140

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.145

§ 1798.145. Exemptions ¹

Effective: December 16, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.145 operative Jan. 1, 2023.>

(a) The obligations imposed on businesses by this title shall not restrict a business' ability to:

(1) Comply with federal, state, or local laws.

(2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, or local authorities.

(3) Cooperate with law enforcement agencies concerning conduct or activity that the business, service provider, or third party reasonably and in good faith believes may violate federal, state, or local law.

(4) Exercise or defend legal claims.

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

(6) Collect or sell a consumer's personal information if every aspect of that commercial conduct takes place wholly outside of California. For purposes of this title, commercial conduct takes place wholly outside of California if the business collected that information while the consumer was outside of California, no part of the sale of the consumer's personal information occurred in 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 business with the title would violate an evidentiary privilege under California law and shall not prevent a business from

providing the personal information of a consumer to a person covered by an evidentiary privilege under California law as part of a privileged communication.

(c)(1) This title shall not apply to any of the following:

(A) Medical information governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with [Section 56](#)) of Division 1) or protected health information that is collected by a covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 ([Public Law 104-191](#))² and the Health Information Technology for Economic and Clinical Health Act ([Public Law 111-5](#)).

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

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

(2) For purposes of this subdivision, the definitions of “medical information” and “provider of health care” in [Section 56.05](#) shall apply and the definitions of “business associate,” “covered entity,” and “protected health information” in [Section 160.103](#) of Title 45 of the Code of Federal Regulations shall apply.

(d)(1) This title shall not apply to an activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, as defined in [subdivision \(f\) of Section 1681a of Title 15 of the United States Code](#), by a furnisher of information, as set forth in [Section 1681s-2 of Title 15 of the United States Code](#), who provides information for use in a consumer report, as defined in [subdivision \(d\) of Section 1681a of Title 15 of the United States Code](#), and by a user of a consumer report as set forth in [Section 1681b of Title 15 of the United States Code](#).

(2) Paragraph (1) shall apply only to the extent that such activity involving the collection, maintenance, disclosure, sale, communication, or use of such information by that agency, furnisher, or user is subject to regulation under the Fair Credit Reporting Act, [section 1681 et seq., Title 15 of the United States Code](#) and the information is not used, communicated, disclosed, or sold except as authorized by the Fair Credit Reporting Act.

(3) This subdivision shall not apply to [Section 1798.150](#).

(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, 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.](#)). This subdivision shall not apply to [Section 1798.150](#).

(g)(1) [Section 1798.120](#) shall not apply to vehicle information or ownership information retained or shared between a new motor vehicle dealer, as defined in [Section 426 of the Vehicle Code](#), and the vehicle's manufacturer, as defined in [Section 672 of the Vehicle Code](#), if the vehicle or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vehicle repair covered by a vehicle warranty or a recall conducted pursuant to [Sections 30118 to 30120, inclusive, of Title 49 of the United States Code](#), provided that the new motor vehicle dealer or vehicle manufacturer with which that vehicle information or ownership information is shared does not sell, share, or use that information for any other purpose.

(2) For purposes of this subdivision:

(A) "Vehicle information" means the vehicle information number, make, model, year, and odometer reading.

(B) "Ownership information" means the name or names of the registered owner or owners and the contact information for the owner or owners.

(h)(1) This title shall not apply to any of the following:

(A) Personal information that is collected by a business about a natural person in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the natural person's personal information is collected and used by the business solely within the context of the natural person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or a contractor of that business.

(B) Personal information that is collected by a business that is emergency contact information of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the personal information is collected and used solely within the context of having an emergency contact on file.

(C) Personal information that is necessary for the business to retain to administer benefits for another natural person relating to the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the personal information is collected and used solely within the context of administering those benefits.

(2) For purposes of this subdivision:

(A) "Contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) “Director” means a natural person designated in the articles of incorporation as such or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) “Medical staff member” means a licensed physician and surgeon, dentist, or podiatrist, licensed pursuant to [Division 2 \(commencing with Section 500\) of the Business and Professions Code](#) and a clinical psychologist as defined in [Section 1316.5 of the Health and Safety Code](#).

(D) “Officer” means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, president, secretary, or treasurer.

(E) “Owner” means a natural person who meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall not apply to [subdivision \(b\) of Section 1798.100](#) or [Section 1798.150](#).

(4) This subdivision shall become inoperative on January 1, 2021.

(i) Notwithstanding a business' 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.

(j) 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.

(k) This title shall not be construed to require a business to collect personal information that it would not otherwise collect in the ordinary course of its business, retain personal information for longer than it would otherwise retain such information in the ordinary course of its business, or reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.

(l) 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.

(m)(1) This title shall not apply to any of the following:

(A) Personal information that is collected by a business about a natural person in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the natural person's personal information is collected and used by the business solely within the context of the natural person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of, that business.

(B) Personal information that is collected by a business that is emergency contact information of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of having an emergency contact on file.

(C) Personal information that is necessary for the business to retain to administer benefits for another natural person relating to the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of administering those benefits.

(2) For purposes of this subdivision:

(A) "Independent contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) "Director" means a natural person designated in the articles of incorporation as director, or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) “Medical staff member” means a licensed physician and surgeon, dentist, or podiatrist, licensed pursuant to [Division 2 \(commencing with Section 500\) of the Business and Professions Code](#) and a clinical psychologist as defined in [Section 1316.5 of the Health and Safety Code](#).

(D) “Officer” means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, including a chief executive officer, president, secretary, or treasurer.

(E) “Owner” means a natural person who meets one of the following criteria:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall not apply to [subdivision \(a\) of Section 1798.100](#) or [Section 1798.150](#).

(4) This subdivision shall become inoperative on January 1, 2023.

(n)(1) The obligations imposed on businesses by [Sections 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, 1798.121, 1798.130, and 1798.135](#) shall not apply to personal information reflecting a written or verbal communication or a transaction between the business and the consumer, where the consumer is a natural person who acted or is acting as an employee, owner, director, officer, or independent contractor of a company, partnership, sole proprietorship, non-profit, or government agency and whose communications or transaction with the business occur solely within the context of the business conducting due diligence regarding, or providing or receiving a product or service to or from such company, partnership, sole proprietorship, non-profit, or government agency.

(2) For purposes of this subdivision:

(A) “Independent contractor” means a natural person who provides any service to a business pursuant to a written contract.

(B) “Director” means a natural person designated in the articles of incorporation as such or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) “Officer” means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, president, secretary, or treasurer.

(D) “Owner” means a natural person who meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall become inoperative on January 1, 2023.

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 10, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 751 (A.B.1146), § 2, eff. Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 8, eff. Jan. 1, 2020; Stats.2019, c. 763 (A.B.25), § 2.3, eff. Jan. 1, 2020; Initiative Measure (Prop. 24, § 15, approved Nov. 3, 2020, eff. Dec. 16, 2020).)

Footnotes

1 Section caption supplied by Prop. 24.

2 For public law sections classified to U.S.C.A., see U.S.C.A. Tables.

West's Ann. Cal. Civ. Code § 1798.145, CA CIVIL § 1798.145

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.146

§ 1798.146. Collection of confidential medical information; protected health information; covered entity or business governed by federal law

Effective: September 25, 2020

[Currentness](#)

(a) This title shall not apply to any of the following:

(1) Medical information governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with [Section 56](#)) of Division 1) or protected health information that is collected by a covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 ([Public Law 104-191](#))¹ and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009 ([Public Law 111-5](#)).

(2) A provider of health care governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with [Section 56](#)) of Division 1) or a covered entity governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 ([Public Law 104-191](#)), to the extent the provider or covered entity maintains, uses, and discloses patient information in the same manner as medical information or protected health information as described in paragraph (1).

(3) A business associate of a covered entity governed by the privacy, security, and data breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 ([Public Law 104-191](#)) and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009 ([Public Law 111-5](#)), to the extent that the business associate maintains, uses, and discloses patient information in the same manner as medical information or protected health information as described in paragraph (1).

(4)(A) Information that meets both of the following conditions:

(i) It is deidentified in accordance with the requirements for deidentification set forth in [Section 164.514 of Part 164 of Title 45 of the Code of Federal Regulations](#).

(ii) It is derived from patient information that was originally collected, created, transmitted, or maintained by an entity regulated by the Health Insurance Portability and Accountability Act, the Confidentiality Of Medical Information Act, or the Federal Policy for the Protection of Human Subjects, also known as the Common Rule.

(B) Information that met the requirements of subparagraph (A) but is subsequently reidentified shall no longer be eligible for the exemption in this paragraph, and shall be subject to applicable federal and state data privacy and security laws, including, but not limited to, the Health Insurance Portability and Accountability Act, the Confidentiality Of Medical Information Act, and this title.

(5) Information that is collected, used, or disclosed in research, as defined in [Section 164.501 of Title 45 of the Code of Federal Regulations](#), including, but not limited to, a clinical trial, and that is conducted in accordance with applicable ethics, confidentiality, privacy, and security rules of Part 164 of Title 45 of the Code of Federal Regulations, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule, good clinical practice guidelines issued by the International Council for Harmonisation, or human subject protection requirements of the United States Food and Drug Administration.

(b) For purposes of this section, all of the following shall apply:

(1) “Business associate” has the same meaning as defined in [Section 160.103 of Title 45 of the Code of Federal Regulations](#).

(2) “Covered entity” has the same meaning as defined in [Section 160.103 of Title 45 of the Code of Federal Regulations](#).

(3) “Identifiable private information” has the same meaning as defined in [Section 46.102 of Title 45 of the Code of Federal Regulations](#).

(4) “Individually identifiable health information” has the same meaning as defined in [Section 160.103 of Title 45 of the Code of Federal Regulations](#).

(5) “Medical information” has the same meaning as defined in [Section 56.05](#).

(6) “Patient information” shall mean identifiable private information, protected health information, individually identifiable health information, or medical information.

(7) “Protected health information” has the same meaning as defined in [Section 160.103 of Title 45 of the Code of Federal Regulations](#).

(8) “Provider of health care” has the same meaning as defined in [Section 56.05](#).

Credits

(Added by [Stats.2020, c. 172 \(A.B.713\)](#), § 2, eff. Sept. 25, 2020.)

Footnotes

¹ For public law sections classified to the U.S.C.A., see USCA-Tables.

West's Ann. Cal. Civ. Code § 1798.146, CA CIVIL § 1798.146

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.148

§ 1798.148. Reidentification of confidential medical information; exceptions

Effective: September 25, 2020

Currentness

(a) A business or other person shall not reidentify, or attempt to reidentify, information that has met the requirements of [paragraph \(4\) of subdivision \(a\) of Section 1798.146](#), except for one or more of the following purposes:

(1) Treatment, payment, or health care operations conducted by a covered entity or business associate acting on behalf of, and at the written direction of, the covered entity. For purposes of this paragraph, “treatment,” “payment,” “health care operations,” “covered entity,” and “business associate” have the same meaning as defined in [Section 164.501 of Title 45 of the Code of Federal Regulations](#).

(2) Public health activities or purposes as described in [Section 164.512 of Title 45 of the Code of Federal Regulations](#).

(3) Research, as defined in [Section 164.501 of Title 45 of the Code of Federal Regulations](#), that is conducted in accordance with Part 46 of Title 45 of the Code of Federal Regulations, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule.

(4) Pursuant to a contract where the lawful holder of the deidentified information that met the requirements of [paragraph \(4\) of subdivision \(a\) of Section 1798.146](#) expressly engages a person or entity to attempt to reidentify the deidentified information in order to conduct testing, analysis, or validation of deidentification, or related statistical techniques, if the contract bans any other use or disclosure of the reidentified information and requires the return or destruction of the information that was reidentified upon completion of the contract.

(5) If otherwise required by law.

(b) In accordance with [paragraph \(4\) of subdivision \(a\) of Section 1798.146](#), information reidentified pursuant this section shall be subject to applicable federal and state data privacy and security laws including, but not limited to, the Health Insurance Portability and Accountability Act, the Confidentiality of Medical Information Act, and this title.

(c) Beginning January 1, 2021, any contract for the sale or license of deidentified information that has met the requirements of [paragraph \(4\) of subdivision \(a\) of Section 1798.146](#), where one of the parties is a person residing or doing business in the state, shall include the following, or substantially similar, provisions:

- (1) A statement that the deidentified information being sold or licensed includes deidentified patient information.

- (2) A statement that reidentification, and attempted reidentification, of the deidentified information by the purchaser or licensee of the information is prohibited pursuant to this section.

- (3) A requirement that, unless otherwise required by law, the purchaser or licensee of the deidentified information may not further disclose the deidentified information to any third party unless the third party is contractually bound by the same or stricter restrictions and conditions.

- (d) For purposes of this section, “reidentify” means the process of reversal of deidentification techniques, including, but not limited to, the addition of specific pieces of information or data elements that can, individually or in combination, be used to uniquely identify an individual or usage of any statistical method, contrivance, computer software, or other means that have the effect of associating deidentified information with a specific identifiable individual.

Credits

(Added by [Stats.2020, c. 172 \(A.B.713\)](#), § 3, eff. Sept. 25, 2020.)

West's Ann. Cal. Civ. Code § 1798.148, CA CIVIL § 1798.148

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.150

§ 1798.150. Civil actions for violations of duty to implement and maintain reasonable security procedures and practices; remedies; requirements

Effective: January 1, 2020 to December 31, 2022

Currentness

<Section operative until Jan. 1, 2023. See, also, § 1798.150 operative Jan. 1, 2023.>

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

(A) To recover damages in an amount not less than one hundred dollars (\$100) and not greater than seven hundred and fifty (\$750) 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 consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(b) Actions pursuant to this section may be brought by a consumer if, prior to initiating any action against a business for statutory damages on an individual or class-wide basis, a consumer provides a business 30 days' written notice identifying the specific provisions of this title the consumer alleges have been or are being violated. In the event a cure is possible, if within the 30 days the business actually cures the noticed violation and provides the consumer an express written statement that the violations have been cured and that no further violations shall occur, no action for individual statutory damages or class-wide statutory damages may be initiated against the business. No notice shall be required prior to an individual consumer initiating an action solely for actual pecuniary damages suffered as a result of the alleged violations of this title. If a business continues to violate this title in breach of the express written statement provided to the consumer under this section, the consumer may initiate an action against the business to enforce the written statement and may pursue statutory damages for each breach of the express written statement, as well as any other violation of the title that postdates the written statement.

(c) The cause of action established by this section shall apply only to violations as defined in subdivision (a) and shall not be based on violations of any other section of this title. Nothing in this 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 relieve any party from any duties or obligations imposed under other law or the United States or California Constitution.

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 11, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 9, eff. Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.150, CA CIVIL § 1798.150

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.155

§ 1798.155. Attorney General guidance; civil action brought
by Attorney General; amount and allocation of penalties

Effective: January 1, 2020 to December 31, 2022
[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, [§ 1798.155](#) operative Jan. 1, 2023.>

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

(b) A business shall be in violation of this title if it fails to cure any alleged violation within 30 days after being notified of alleged noncompliance. Any business, service provider, or other person that violates this title shall be subject to an injunction and liable for a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation or seven thousand five hundred dollars (\$7,500) for each intentional violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The civil penalties provided for in this section shall be exclusively assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General.

(c) Any civil penalty assessed for a violation of this title, and the proceeds of any settlement of an action brought pursuant to subdivision (b), shall be deposited in the Consumer Privacy Fund, created within the General Fund pursuant to [subdivision \(a\) of Section 1798.160](#) with the intent to fully offset any costs incurred by the state courts and the Attorney General in connection with this title.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 12, eff. Sept. 23, 2018, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.155, CA CIVIL § 1798.155

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.160

§ 1798.160. Consumer Privacy Fund ¹

Effective: December 16, 2020

Currentness

(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 first to offset any costs incurred by the state courts in connection with actions brought to enforce this title, the costs incurred by the Attorney General in carrying out the Attorney General's duties under this title, and then for the purposes of establishing an investment fund in the State Treasury, with any earnings or interest from the fund to be deposited in the General Fund, and making grants to promote and protect consumer privacy, educate children in the area of online privacy, and fund cooperative programs with international law enforcement organizations to combat fraudulent activities with respect to consumer data breaches.

(b) Funds transferred to the Consumer Privacy Fund shall be used exclusively as follows:

(1) To offset any costs incurred by the state courts and the Attorney General in connection with this title.

(2) After satisfying the obligations under paragraph (1), the remaining funds shall be allocated each fiscal year as follows:

(A) Ninety-one percent shall be invested by the Treasurer in financial assets with the goal of maximizing long term yields consistent with a prudent level of risk. The principal shall not be subject to transfer or appropriation, provided that any interest and earnings shall be transferred on an annual basis to the General Fund for appropriation by the Legislature for General Fund purposes.

(B) Nine percent shall be made available to the California Privacy Protection Agency for the purposes of making grants in California, with 3 percent allocated to each of the following grant recipients:

(i) Nonprofit organizations to promote and protect consumer privacy.

(ii) Nonprofit organizations and public agencies, including school districts, to educate children in the area of online privacy.

(iii) State and local law enforcement agencies to fund cooperative programs with international law enforcement organizations to combat fraudulent activities with respect to consumer data breaches.

(c) Funds in the Consumer Privacy Fund shall not be subject to appropriation or transfer by the Legislature for any other purpose.

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Initiative Measure (Prop. 24, § 18, approved Nov. 3, 2020, eff. Dec. 16, 2020).)

Footnotes

1 Section caption supplied by Prop. 24.

West's Ann. Cal. Civ. Code § 1798.160, CA CIVIL § 1798.160

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Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.175

§ 1798.175. Intent, scope, and construction of title

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.175 operative Jan. 1, 2023.>

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.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.175, CA CIVIL § 1798.175

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.180

§ 1798.180. Supersedure and preemption

Effective: September 23, 2018 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.180 operative Jan. 1, 2023.>

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.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Sept. 23, 2018.)

West's Ann. Cal. Civ. Code § 1798.180, CA CIVIL § 1798.180

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.185

§ 1798.185. Regulations ¹

Effective: December 16, 2020

Currentness

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

(1) Updating or adding categories of personal information to those enumerated in [subdivision \(c\) of Section 1798.130](#) and [subdivision \(v\) of Section 1798.140](#), and updating or adding categories of sensitive personal information to those enumerated in [subdivision \(ae\) of Section 1798.140](#) in order to address changes in technology, data collection practices, obstacles to implementation, and privacy concerns.

(2) Updating as needed the definitions of “deidentified” and “unique identifier” to address changes in technology, data collection, obstacles to implementation, and privacy concerns, and adding, modifying, or deleting categories to the definition of designated methods for submitting requests to facilitate a consumer's ability to obtain information from a business pursuant to [Section 1798.130](#). The authority to update the definition of “deidentified” shall not apply to deidentification standards set forth in [Section 164.514 of Title 45 of the Code of Federal Regulations](#), where such information previously was “protected health information” as defined in [Section 160.103 of Title 45 of the Code of Federal Regulations](#).

(3) Establishing any exceptions necessary to comply with state or federal law, including, but not limited to, those relating to trade secrets and intellectual property rights, within one year of passage of this title and as needed thereafter, with the intention that trade secrets should not be disclosed in response to a verifiable consumer request.

(4) Establishing rules and procedures for the following:

(A) To facilitate and govern the submission of a request by a consumer to opt-out of the sale or sharing of personal information pursuant to [Section 1798.120](#) and to limit the use of a consumer's sensitive personal information pursuant to [Section 1798.121](#) to ensure that consumers have the ability to exercise their choices without undue burden and to prevent business from engaging in deceptive or harassing conduct, including in retaliation against consumers for exercising their rights, while allowing businesses to inform consumers of the consequences of their decision to opt out of the sale or sharing of their personal information or to limit the use of their sensitive personal information.

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

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

(5) Adjusting the monetary thresholds, in January of every odd-numbered year to reflect any increase in the Consumer Price Index, in: subparagraph (A) of paragraph (1) of subdivision (d) of Section 1798.140; subparagraph (A) of paragraph (1) of subdivision (a) of Section 1798.150; subdivision (a) of Section 1798.155; Section 1798.199.25; and subdivision (a) of Section 1798.199.90.

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

(7) Establishing rules and procedures to further the purposes of Sections 1798.105, 1798.106, 1798.110, and 1798.115 and to facilitate a consumer's or the consumer's authorized agent's ability to delete personal information, correct inaccurate personal information pursuant to Section 1798.106, or obtain information pursuant to Section 1798.130, with the goal of minimizing the administrative burden on consumers, taking into account available technology, security concerns, and the burden on the business, to govern a business's determination that a request for information received from a consumer is a verifiable consumer request, including treating a request submitted through a password-protected account maintained by the consumer with the business while the consumer is logged into the account as a verifiable consumer request and providing a mechanism for a consumer who does not maintain an account with the business to request information through the business's authentication of the consumer's identity, within one year of passage of this title and as needed thereafter.

(8) Establishing how often, and under what circumstances, a consumer may request a correction pursuant to Section 1798.106, including standards governing the following:

(A) How a business responds to a request for correction, including exceptions for requests to which a response is impossible or would involve disproportionate effort, and requests for correction of accurate information.

(B) How concerns regarding the accuracy of the information may be resolved.

(C) The steps a business may take to prevent fraud.

(D) If a business rejects a request to correct personal information collected and analyzed concerning a consumer's health, the right of a consumer to provide a written addendum to the business with respect to any item or statement regarding any such personal information that the consumer believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item and shall clearly indicate in writing that the consumer requests the addendum to be made a part of the consumer's record.

(9) Establishing the standard to govern a business' determination, pursuant to [subparagraph \(B\) of paragraph \(2\) of subdivision \(a\) of Section 1798.130](#), that providing information beyond the 12-month period in a response to a verifiable consumer request is impossible or would involve a disproportionate effort.

(10) Issuing regulations further defining and adding to the business purposes, including other notified purposes, for which businesses, service providers, and contractors may use consumers' personal information consistent with consumers' expectations, and further defining the business purposes for which service providers and contractors may combine consumers' personal information obtained from different sources, except as provided for in [paragraph \(6\) of subdivision \(e\) of Section 1798.140](#).

(11) Issuing regulations identifying those business purposes, including other notified purposes, for which service providers and contractors may use consumers' personal information received pursuant to a written contract with a business, for the service provider or contractor's own business purposes, with the goal of maximizing consumer privacy.

(12) Issuing regulations to further define “intentionally interacts,” with the goal of maximizing consumer privacy.

(13) Issuing regulations to further define “precise geolocation,” including if the size defined is not sufficient to protect consumer privacy in sparsely populated areas or when the personal information is used for normal operational purposes, including billing.

(14) Issuing regulations to define the term “specific pieces of information obtained from the consumer” with the goal of maximizing a consumer's right to access relevant personal information while minimizing the delivery of information to a consumer that would not be useful to the consumer, including system log information and other technical data. For delivery of the most sensitive personal information, the regulations may require a higher standard of authentication provided that the agency shall monitor the impact of the higher standard on the right of consumers to obtain their personal information to ensure that the requirements of verification do not result in the unreasonable denial of verifiable consumer requests.

(15) Issuing regulations requiring businesses whose processing of consumers' personal information presents significant risk to consumers' privacy or security, to:

(A) Perform a cybersecurity audit on an annual basis, including defining the scope of the audit and establishing a process to ensure that audits are thorough and independent. The factors to be considered in determining when processing may result in significant risk to the security of personal information shall include the size and complexity of the business and the nature and scope of processing activities.

(B) Submit to the California Privacy Protection Agency on a regular basis a risk assessment with respect to their processing of personal information, including whether the processing involves sensitive personal information, and identifying and weighing the benefits resulting from the processing to the business, the consumer, other stakeholders, and the public, against the potential risks to the rights of the consumer associated with that processing, with the goal of restricting or prohibiting the processing if the risks to privacy of the consumer outweigh the benefits resulting from processing to the consumer, the business, other stakeholders, and the public. Nothing in this section shall require a business to divulge trade secrets.

(16) Issuing regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer.

(17) Issuing regulations to further define a “law enforcement agency-approved investigation” for purposes of the exception in [paragraph \(2\) of subdivision \(a\) of Section 1798.145](#).

(18) Issuing regulations to define the scope and process for the exercise of the agency's audit authority, to establish criteria for selection of persons to audit, and to protect consumers' personal information from disclosure to an auditor in the absence of a court order, warrant, or subpoena.

(19)(A) Issuing regulations to define the requirements and technical specifications for an opt-out preference signal sent by a platform, technology, or mechanism, to indicate a consumer's intent to opt out of the sale or sharing of the consumer's personal information and to limit the use or disclosure of the consumer's sensitive personal information. The requirements and specifications for the opt-out preference signal should be updated from time to time to reflect the means by which consumers interact with businesses, and should:

(i) Ensure that the manufacturer of a platform or browser or device that sends the opt-out preference signal cannot unfairly disadvantage another business.

(ii) Ensure that the opt-out preference signal is consumer-friendly, clearly described, and easy to use by an average consumer and does not require that the consumer provide additional information beyond what is necessary.

(iii) Clearly represent a consumer's intent and be free of defaults constraining or presupposing that intent.

(iv) Ensure that the opt-out preference signal does not conflict with other commonly used privacy settings or tools that consumers may employ.

(v) Provide a mechanism for the consumer to selectively consent to a business' sale of the consumer's personal information, or the use or disclosure of the consumer's sensitive personal information, without affecting the consumer's preferences with respect to other businesses or disabling the opt-out preference signal globally.

(vi) State that in the case of a page or setting view that the consumer accesses to set the opt-out preference signal, the consumer should see up to three choices, including:

(I) Global opt out from sale and sharing of personal information, including a direction to limit the use of sensitive personal information.

(II) Choice to “Limit the Use of My Sensitive Personal Information.”

(III) Choice titled “Do Not Sell/Do Not Share My Personal Information for Cross-Context Behavioral Advertising.”

(B) Issuing regulations to establish technical specifications for an opt-out preference signal that allows the consumer, or the consumer's parent or guardian, to specify that the consumer is less than 13 years of age or at least 13 years of age and less than 16 years of age.

(C) Issuing regulations, with the goal of strengthening consumer privacy while considering the legitimate operational interests of businesses, to govern the use or disclosure of a consumer's sensitive personal information, notwithstanding the consumer's direction to limit the use or disclosure of the consumer's sensitive personal information, including:

(i) Determining any additional purposes for which a business may use or disclose a consumer's sensitive personal information.

(ii) Determining the scope of activities permitted under [paragraph \(8\) of subdivision \(e\) of Section 1798.140](#), as authorized by [subdivision \(a\) of Section 1798.121](#), to ensure that the activities do not involve health-related research.

(iii) Ensuring the functionality of the business' operations.

(iv) Ensuring that the exemption in [subdivision \(d\) of Section 1798.121](#) for sensitive personal information applies to information that is collected or processed incidentally, or without the purpose of inferring characteristics about a consumer, while ensuring that businesses do not use the exemption for the purpose of evading consumers' rights to limit the use and disclosure of their sensitive personal information under [Section 1798.121](#).

(20) Issuing regulations to govern how a business that has elected to comply with [subdivision \(b\) of Section 1798.135](#) responds to the opt-out preference signal and provides consumers with the opportunity subsequently to consent to the sale or sharing of their personal information or the use and disclosure of their sensitive personal information for purposes in addition to those authorized by [subdivision \(a\) of Section 1798.121](#). The regulations should:

(A) Strive to promote competition and consumer choice and be technology neutral.

(B) Ensure that the business does not respond to an opt-out preference signal by:

(i) Intentionally degrading the functionality of the consumer experience.

(ii) Charging the consumer a fee in response to the consumer's opt-out preferences.

(iii) Making any products or services not function properly or fully for the consumer, as compared to consumers who do not use the opt-out preference signal.

(iv) Attempting to coerce the consumer to opt in to the sale or sharing of the consumer's personal information, or the use or disclosure of the consumer's sensitive personal information, by stating or implying that the use of the opt-out preference signal will adversely affect the consumer as compared to consumers who do not use the opt-out preference signal, including stating or implying that the consumer will not be able to use the business' products or services or that those products or services may not function properly or fully.

(v) Displaying any notification or pop-up in response to the consumer's opt-out preference signal.

(C) Ensure that any link to a web page or its supporting content that allows the consumer to consent to opt in:

(i) Is not part of a popup, notice, banner, or other intrusive design that obscures any part of the web page the consumer intended to visit from full view or that interferes with or impedes in any way the consumer's experience visiting or browsing the web page or website the consumer intended to visit.

(ii) Does not require or imply that the consumer must click the link to receive full functionality of any products or services, including the website.

(iii) Does not make use of any dark patterns.

(iv) Applies only to the business with which the consumer intends to interact.

(D) Strive to curb coercive or deceptive practices in response to an opt-out preference signal but should not unduly restrict businesses that are trying in good faith to comply with [Section 1798.135](#).

(21) Review existing Insurance Code provisions and regulations relating to consumer privacy, except those relating to insurance rates or pricing, to determine whether any provisions of the Insurance Code provide greater protection to consumers than the provisions of this title. Upon completing its review, the agency shall adopt a regulation that applies only the more protective provisions of this title to insurance companies. For the purpose of clarity, the Insurance Commissioner shall have jurisdiction over insurance rates and pricing.

(22) Harmonizing the regulations governing opt-out mechanisms, notices to consumers, and other operational mechanisms in this title to promote clarity and the functionality of this title for consumers.

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

(c) The Attorney General shall not bring an enforcement action under this title until six months after the publication of the final regulations issued pursuant to this section or July 1, 2020, whichever is sooner.

(d) Notwithstanding subdivision (a), the timeline for adopting final regulations required by the act adding this subdivision shall be July 1, 2022. Beginning the later of July 1, 2021, or six months after the agency provides notice to the Attorney General that

it is prepared to begin rulemaking under this title, the authority assigned to the Attorney General to adopt regulations under this section shall be exercised by the California Privacy Protection Agency. Notwithstanding any other law, civil and administrative enforcement of the provisions of law added or amended by this act shall not commence until July 1, 2023, and shall only apply to violations occurring on or after that date. Enforcement of provisions of law contained in the California Consumer Privacy Act of 2018 amended by this act shall remain in effect and shall be enforceable until the same provisions of this act become enforceable.

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 13, eff. Sept. 23, 2018, operative Jan. 1, 2020; Stats.2019, c. 757 (A.B.1355), § 10, eff. Jan. 1, 2020; Initiative Measure (Prop. 24, § 21, approved Nov. 3, 2020, eff. Dec. 16, 2020).)

Footnotes

1 Section caption supplied by Prop. 24.

West's Ann. Cal. Civ. Code § 1798.185, CA CIVIL § 1798.185

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.190

§ 1798.190. Intermediate steps or transactions to be disregarded

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.190 operative Jan. 1, 2023.>

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.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.190, CA CIVIL § 1798.190

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.192

§ 1798.192. Void and unenforceable provisions of contract or agreement

Effective: January 1, 2020 to December 31, 2022

[Currentness](#)

<Section operative until Jan. 1, 2023. See, also, § 1798.192 operative Jan. 1, 2023.>

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

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 14, eff. Sept. 23, 2018, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.192, CA CIVIL § 1798.192

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.194

§ 1798.194. Liberal construction of title

Effective: January 1, 2020

[Currentness](#)

This title shall be liberally construed to effectuate its purposes.

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.194, CA CIVIL § 1798.194

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.196

§ 1798.196. Construction with federal law, United States Constitution, and California Constitution

Effective: January 1, 2020

[Currentness](#)

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

Credits

(Added by Stats.2018, c. 55 (A.B.375), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by Stats.2018, c. 735 (S.B.1121), § 15, eff. Sept. 23, 2018, operative Jan. 1, 2020.)

West's Ann. Cal. Civ. Code § 1798.196, CA CIVIL § 1798.196

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.198

§ 1798.198. Operative date of title

Effective: January 1, 2020

Currentness

(a) Subject to limitation provided in subdivision (b), and in [Section 1798.199](#), this title shall be operative January 1, 2020.

(b) This title shall become operative only if initiative measure No. 17-0039, The Consumer Right to Privacy Act of 2018, is withdrawn from the ballot pursuant to [Section 9604 of the Elections Code](#).¹

Credits

(Added by [Stats.2018, c. 55 \(A.B.375\)](#), § 3, eff. Jan. 1, 2019, operative Jan. 1, 2020. Amended by [Stats.2018, c. 735 \(S.B.1121\)](#), § 16, eff. Sept. 23, 2018, operative Jan. 1, 2020.)

Footnotes

¹ Initiative measure No. 17-0039 was withdrawn from the ballot June 28, 2018.

West's Ann. Cal. Civ. Code § 1798.198, CA CIVIL § 1798.198

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199

§ 1798.199. Operative date of Section 1798.180

Effective: January 1, 2020

[Currentness](#)

Notwithstanding [Section 1798.198](#), [Section 1798.180](#) shall be operative on the effective date of the act ¹ adding this section.

Credits

(Added by [Stats.2018, c. 735 \(S.B.1121\)](#), § 17, eff. [Sept. 23, 2018](#), operative Jan. 1, 2020.)

Footnotes

¹ [Stats.2018, c. 735 \(S.B.1121\)](#), eff. [Sept. 23, 2018](#).

West's Ann. Cal. Civ. Code § 1798.199, CA CIVIL § 1798.199

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Proposed Legislation

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.10

§ 1798.199.10. California Privacy Protection Agency; establishment; appointments

Effective: December 16, 2020

[Currentness](#)

(a) There is hereby established in state government the California Privacy Protection Agency, which is vested with full administrative power, authority, and jurisdiction to implement and enforce the California Consumer Privacy Act of 2018. The agency shall be governed by a five-member board, including the chairperson. The chairperson and one member of the board shall be appointed by the Governor. The Attorney General, Senate Rules Committee, and Speaker of the Assembly shall each appoint one member. These appointments should be made from among Californians with expertise in the areas of privacy, technology, and consumer rights.

(b) The initial appointments to the agency shall be made within 90 days of the effective date of the act adding this section.

Credits


(Added by [Initiative Measure \(Prop. 24, § 24.1, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.10, CA CIVIL § 1798.199.10

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Proposed Legislation

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.15

§ 1798.199.15. Members of the board; qualifications; conduct

Effective: December 16, 2020

[Currentness](#)

Members of the agency board shall:

- (a) Have qualifications, experience, and skills, in particular in the areas of privacy and technology, required to perform the duties of the agency and exercise its powers.
- (b) Maintain the confidentiality of information which has come to their knowledge in the course of the performance of their tasks or exercise of their powers, except to the extent that disclosure is required by the Public Records Act.
- (c) Remain free from external influence, whether direct or indirect, and shall neither seek nor take instructions from another.
- (d) Refrain from any action incompatible with their duties and engaging in any incompatible occupation, whether gainful or not, during their term.
- (e) Have the right of access to all information made available by the agency to the chairperson.
- (f) Be precluded, for a period of one year after leaving office, from accepting employment with a business that was subject to an enforcement action or civil action under this title during the member's tenure or during the five-year period preceding the member's appointment.
- (g) Be precluded for a period of two years after leaving office from acting, for compensation, as an agent or attorney for, or otherwise representing, any other person in a matter pending before the agency if the purpose is to influence an action of the agency.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.2, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.15, CA CIVIL § 1798.199.15

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.20

§ 1798.199.20. Duration of service

Effective: December 16, 2020

[Currentness](#)

Members of the agency board, including the chairperson, shall serve at the pleasure of their appointing authority but shall serve for no longer than eight consecutive years.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.3, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.20, CA CIVIL § 1798.199.20

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.25

§ 1798.199.25. Compensation

Effective: December 16, 2020

[Currentness](#)

For each day on which they engage in official duties, members of the agency board shall be compensated at the rate of one hundred dollars (\$100), adjusted biennially to reflect changes in the cost of living, and shall be reimbursed for expenses incurred in performance of their official duties.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.4, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.25, CA CIVIL § 1798.199.25

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.30

§ 1798.199.30. Executive director; officers, counsel, and employees

Effective: December 16, 2020

[Currentness](#)

The agency board shall appoint an executive director who shall act in accordance with agency policies and regulations and with applicable law. The agency shall appoint and discharge officers, counsel, and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties. The agency may contract for services that cannot be provided by its employees.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.5, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.30, CA CIVIL § 1798.199.30

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West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.35

§ 1798.199.35. Delegation of authority

Effective: December 16, 2020

[Currentness](#)

The agency board may delegate authority to the chairperson or the executive director to act in the name of the agency between meetings of the agency, except with respect to resolution of enforcement actions and rulemaking authority.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.6, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.35, CA CIVIL § 1798.199.35

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Proposed Legislation

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.40

§ 1798.199.40. Functions of agency

Effective: December 16, 2020

[Currentness](#)

The agency shall perform the following functions:

- (a) Administer, implement, and enforce through administrative actions this title.
- (b) On and after the earlier of July 1, 2021, or within six months of the agency providing the Attorney General with notice that it is prepared to assume rulemaking responsibilities under this title, adopt, amend, and rescind regulations pursuant to [Section 1798.185](#) to carry out the purposes and provisions of the California Consumer Privacy Act of 2018, including regulations specifying record keeping requirements for businesses to ensure compliance with this title.
- (c) Through the implementation of this title, protect the fundamental privacy rights of natural persons with respect to the use of their personal information.
- (d) Promote public awareness and understanding of the risks, rules, responsibilities, safeguards, and rights in relation to the collection, use, sale, and disclosure of personal information, including the rights of minors with respect to their own information, and provide a public report summarizing the risk assessments filed with the agency pursuant to paragraph (15) of [subdivision \(a\) of Section 1798.185](#) while ensuring that data security is not compromised.
- (e) Provide guidance to consumers regarding their rights under this title.
- (f) Provide guidance to businesses regarding their duties and responsibilities under this title and appoint a Chief Privacy Auditor to conduct audits of businesses to ensure compliance with this title pursuant to regulations adopted pursuant to paragraph (18) of [subdivision \(a\) of Section 1798.185](#).
- (g) Provide technical assistance and advice to the Legislature, upon request, with respect to privacy-related legislation.

(h) Monitor relevant developments relating to the protection of personal information and in particular, the development of information and communication technologies and commercial practices.

(i) Cooperate with other agencies with jurisdiction over privacy laws and with data processing authorities in California, other states, territories, and countries to ensure consistent application of privacy protections.

(j) Establish a mechanism pursuant to which persons doing business in California that do not meet the definition of business set forth in [paragraph \(1\), \(2\), or \(3\) of subdivision \(d\) of Section 1798.140](#) may voluntarily certify that they are in compliance with this title, as set forth in [paragraph \(4\) of subdivision \(d\) of Section 1798.140](#), and make a list of those entities available to the public.

(k) Solicit, review, and approve applications for grants to the extent funds are available pursuant to [paragraph \(2\) of subdivision \(b\) of Section 1798.160](#).

(l) Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction and seek to balance the goals of strengthening consumer privacy while giving attention to the impact on businesses.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.7, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.40, CA CIVIL § 1798.199.40

Current with urgency legislation through Ch. 172 of 2021 Reg.Sess. Some statute sections may be more current, see credits for details.

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 3. Obligations (Refs & Annos)
Part 4. Obligations Arising from Particular Transactions (Refs & Annos)
Title 1.81.5. California Consumer Privacy Act of 2018 (Refs & Annos)

West's Ann.Cal.Civ.Code § 1798.199.95

§ 1798.199.95. Appropriations

Effective: December 16, 2020

[Currentness](#)

(a) There is hereby appropriated from the General Fund of the state to the agency the sum of five million dollars (\$5,000,000) during the fiscal year 2020-2021, and the sum of ten million dollars (\$10,000,000) adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the agency pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate those additional amounts to the commission and other agencies as may be necessary to carry out the provisions of this title.

(b) The Department of Finance, in preparing the state budget and the Budget Act bill submitted to the Legislature, shall include an item for the support of this title that shall indicate all of the following:

(1) The amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of those agencies.

(2) The additional amounts required to be appropriated by the Legislature to the agency to carry out the purposes of this title, as provided for in this section.

(3) In parentheses, for informational purposes, the continuing appropriation during each fiscal year of ten million dollars (\$10,000,000), adjusted for cost-of-living changes made pursuant to this section.

(c) The Attorney General shall provide staff support to the agency until the agency has hired its own staff. The Attorney General shall be reimbursed by the agency for these services.

Credits

(Added by [Initiative Measure \(Prop. 24, § 24.18, approved Nov. 3, 2020, eff. Dec. 16, 2020\)](#).)

West's Ann. Cal. Civ. Code § 1798.199.95, CA CIVIL § 1798.199.95

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