

**Assembly
California Legislature
Committee on Rules**

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WALDRON, MARIE

FONG, VINCE (R-ALT)
LEVINE, MARC (D-ALT)

Friday, August 24, 2018
10 minutes prior to Session
State Capitol, Room 3162

CONSENT AGENDA

SENATE BILL

- | | | | |
|----|---------------------|---|------------------------|
| 1. | SB-419 (Portantino) | Relative to Legislature: Whistleblower protection and retaliation prevention. | Page 2 |
|----|---------------------|---|------------------------|

RESOLUTIONS

- | | | | |
|----|-----------------------------|---|-------------------------|
| 2. | ACR-285 (Gonzalez Fletcher) | Relative to Diaper Need Awareness Week. | Page 17 |
| 3. | SCR-153 (Fuller) | Relative to National Day of the Cowboy. | Page 20 |
| 4. | SCR-158 (Fuller) | Relative to Chiari Malformation Awareness Month. | Page 23 |
| 5. | SCR-160 (McGuire) | Relative to Metastatic Breast Cancer Awareness Day. | Page 26 |
| 6. | SCR-165 (Lara) | Relative to California Firefighter Appreciation Month and California Firefighters Memorial Day. | Page 31 |

REQUESTS TO ADD URGENCY CLAUSE

- | | | | |
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| 7. | SB-1121 (Dodd) | Relative to California Consumer Privacy Act of 2018. | Page 34 |
| 8. | SB-1459 (Cannella) | Relative to Cannabis cultivation: county agricultural commissioners: reporting. | Page 110 |

AMENDED IN ASSEMBLY AUGUST 21, 2018

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN SENATE JANUARY 24, 2018

AMENDED IN SENATE JANUARY 11, 2018

AMENDED IN SENATE JANUARY 4, 2018

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL

No. 419

Introduced by Senators Portantino and Leyva
(Coauthors: Senators Atkins, Bates, Beall, De León, Dodd, Galgiani,
Hernandez, Hertzberg, Hill, McGuire, Roth, Stern, and Wiener)
(Coauthors: Assembly Members Burke, Cervantes, and Rubio)

February 15, 2017

An act to *amend Section 9149.32 of, and to add Article 12* (commencing with Section 9149.38) to Chapter 1.5 of Part 1 of Division 2 of Title 2 ~~of of~~, the Government Code, relating to the Legislature, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Portantino. Legislature: ~~Legislative Sexual Harassment Retaliation Prevention Act. Whistleblower protection and retaliation prevention.~~

Existing law, the Legislative Employee Whistleblower Protection Act, imposes criminal and civil liability on a Member of the Legislature or legislative employee, as defined, who interferes with, or retaliates against, a legislative employee's exercise of the right to make a

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protected disclosure, which is defined as a good faith allegation made by a legislative employee to specified entities that a Member of the Legislature or a legislative employee has engaged in, or will engage in, activity that may constitute a violation of law or a violation of a legislative standard of conduct.

This bill would define “protected disclosure” for purposes of that act to also include a complaint made at the request of a legislative employee and a complaint made against a nonemployee in specified circumstances.

Existing law, the California Fair Employment and Housing Act (FEHA), protects and safeguards the right and opportunity of all persons to generally seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of enumerated protected categories. Existing law also precludes an employer, labor organization, employment agency, or person from discharging, expelling, or otherwise discriminating against any person because the person has opposed any practices forbidden under FEHA or because the person has filed a complaint, testified, or assisted in any FEHA proceeding.

Existing law, the Unruh Civil Rights Act, states that all people in California are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, no matter their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. Existing law establishes a cause of action for violations of that act. Existing law also separately establishes liability for sexual harassment if a plaintiff proves specified elements, including, among other things, that there is a business, service, or professional relationship between the plaintiff and defendant.

This bill would declare that neither house of the Legislature may retaliate against a legislative advocate or employee, as defined, because that person has opposed any practices forbidden under the above provisions, or filed a complaint, testified, or assisted in any proceeding relating to a complaint of harassment under those provisions. This bill would impose civil liability for a violation of that prohibition. This bill would also require each house of the Legislature to maintain a record of each harassment complaint made to that house for a period of at least 12 years after the complaint is made.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 *SECTION 1. Section 9149.32 of the Government Code is*
2 *amended to read:*

3 9149.32. For the purposes of this article, the following terms
4 have the following meanings:

5 (a) “Interfere” means to intimidate, threaten, coerce, or
6 command, or attempt to intimidate, threaten, coerce, or command
7 a legislative employee who attempts to make a protected disclosure.

8 (b) “Legislative employee” means an individual, other than a
9 Member of either house of the Legislature, who is, or has been,
10 employed by either house of the Legislature. “Legislative
11 employee” includes volunteers, interns, fellows, and applicants.

12 (c) “Protected disclosure” means a communication ~~by that is~~
13 ~~both of the following:~~

14 ~~(1) Made by a legislative employee that is made in good faith~~
15 ~~alleging that a Member of the Legislature or legislative employee~~
16 ~~any of the following engaged in, or will engage in, activity that~~
17 ~~may constitute a violation of any law, including sexual harassment,~~
18 ~~or of a legislative code of conduct. A protected disclosure is a~~
19 ~~disclosure that is protected conduct.~~

20 (A) A Member of the Legislature.

21 (B) A legislative employee.

22 (C) A person who is neither a Member of the Legislature nor a
23 legislative employee whose behavior affects a Member or
24 legislative employee who is engaged in a work-related activity.

25 (2) Protected under the California Fair Employment and
26 Housing Act (Part 2.8 (commencing with Section 12900) of
27 Division 3 of Title 2 of the Government Code) or made to any of
28 the following entities:

29 ~~(1)~~

30 (A) The Senate Committee on Rules, or its publicly identified
31 designee.

32 ~~(2)~~

33 (B) The Assembly Committee on Rules, or its publicly identified
34 designee.

35 ~~(3)~~

1 (C) The Joint Committee on Rules, or its publicly identified
2 designee.

3 ~~(4)~~

4 (D) A state or local law enforcement agency.

5 ~~(5)~~

6 (E) A state agency authorized to investigate potential violations
7 of state law.

8 ~~(6)~~

9 (F) An individual with authority over the legislative employee,
10 or another legislative employee who has authority to investigate,
11 discover, or correct the violation or noncompliance.

12 (d) “Retaliate” means to take any action that would dissuade a
13 reasonable individual from making or supporting a protected
14 disclosure, including issuing a reprisal, threatening, coercing, or
15 taking any similarly improper action against a legislative employee
16 who makes a protected disclosure.

17 (e) “Use of official authority or influence” includes promising
18 to confer, or conferring, any benefit; effecting, or threatening to
19 effect, any reprisal; or taking, or directing others to take, or
20 recommending, processing, or approving, any personnel action,
21 including an appointment, promotion, transfer, assignment,
22 performance evaluation, suspension, or other disciplinary action.

23 ~~SECTION 1.~~

24 SEC. 2. Article 12 (commencing with Section 9149.38) is added
25 to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government
26 Code, to read:

27
28 Article 12. Legislative Discriminatory Harassment Retaliation
29 Prevention Act
30

31 9149.38. This article shall be known and may be cited as the
32 Legislative Discriminatory Harassment Retaliation Prevention
33 Act.

34 9149.39. For purposes of this article, the following terms have
35 the following meanings:

36 (a) “Discriminatory harassment” means harassment based on
37 race, religious creed, color, national origin, ancestry, physical
38 disability, mental disability, medical condition, genetic information,
39 marital status, sex, gender, gender identity, gender expression,
40 age, sexual orientation, or military and veteran status.

(b) “Legislative advocate” means an individual whose activities include communicating directly or through his or her agent with a Member of the Legislature, or any officer or employee thereof, for the purpose of influencing legislative action.

(c) “Legislative employee” means an individual, other than a Member of the Legislature, who is, or has been, employed by either house of the Legislature. “Legislative employee” includes volunteers, interns, fellows, and applicants.

9149.40. (a) A house of the Legislature shall not discharge, expel, or otherwise discriminate against a legislative advocate or a legislative employee because that person has opposed any practices forbidden under the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3), opposed any practice actionable under Section 51 or 51.9 of the Civil Code, or filed a complaint, testified, or assisted in any proceeding relating to a complaint of discriminatory harassment made pursuant to those laws. *This subdivision does not apply to an act taken by a vote of the house or to the deliberation of legislative matters within its jurisdiction.*

(b) A violation of this section is subject to a fine not to exceed ten thousand dollars (\$10,000).

(c) This article does not limit either of the following:

(1) The application of any other rights or remedies under federal or state law.

(2) The authority conferred upon the Attorney General, any state or federal law enforcement agency, or any other commission, department, or agency authorized to investigate the Legislature.

(d) The civil fine imposed under this article is in addition to those provided by any other federal or state law, including Section 1102.5 of the Labor Code and the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code).

9149.41. Each house of the Legislature shall implement a system to maintain a record of each discriminatory harassment complaint made to that house for a period of at least 12 years after the complaint is made.

~~SEC. 2.~~

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the California Constitution and shall
2 go into immediate effect. The facts constituting the necessity are:
3 To enable victims and witnesses of discriminatory harassment
4 to come forward as soon as possible without fear of retaliation, it
5 is necessary that this bill take effect immediately.

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Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
SB 419 (Portantino) – As Amended August 21, 2018

SENATE VOTE: 39-0

SUBJECT: Legislature: Whistleblower protection and retaliation prevention.

SUMMARY: Enacts the Legislative Discriminatory Harassment Retaliation Prevention Act to prohibit retaliation or discrimination against a legislative advocate or legislative employee who opposes the violation of laws prohibiting harassment and discrimination or other acts that constitute discriminatory harassment. Also, makes clarifying changes to the Legislative Employee Whistleblower Protection Act. Specifically, **this bill**:

- 1) Prohibits a house of the Legislature from discharging, expelling, or otherwise discriminating against a legislative advocate or legislative employee, as defined, because that person has opposed any practices forbidden under the California Fair Employment and Housing Act; or, filed a complaint, testified, or assisted in any proceeding relating to a complaint of discriminatory harassment.
- 2) Defines “legislative advocate” as an individual whose activities include communicating directly or through their agent with a Member of the Legislature, or any officer or employee thereof, for the purpose of influencing legislative action.
- 3) Provides that the bill’s anti-discrimination and retaliation provisions do not apply to an act taken by a vote of the house or to the deliberation of legislative matters within its jurisdiction.
- 4) Imposes civil liability for a violation of the bill’s anti-discrimination and retaliation provisions, not to exceed \$10,000.
- 5) Requires each house of the Legislature to implement a system to maintain a record of each discriminatory harassment complaint made to that house for a period of at least 12 years after the complaint is made.
- 6) Clarifies the definition of “protected disclosure” in the Legislative Employee Whistleblower Protection Act and applies to conduct by a Member of the Legislature, a legislative employee, and a person who is neither a Member of the Legislature nor a legislative employee whose behavior affects a Member or legislative employee who is engaged in a work-related activity.

EXISTING LAW:

- 1) Pursuant to the Fair Employment and Housing Act (“FEHA”), makes it an unlawful employment practice for an employer or labor organization to discriminate against any person in hiring, training, compensation, or other terms of employment because of that person’s race, religious creed, color, national origin, ancestry, physical disability, mental

disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

- 2) Makes it an unlawful employment practice for an employer, labor organization, employment agency, training program, or any other person, to harass an employee, applicant, unpaid intern or volunteer, or independent contractor on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- 3) Makes it an unlawful employment practice for an employer, labor organization, employment agency, or person to retaliate against any person because the person has opposed any unlawful employment practices under FEHA, or who has filed a complaint, testified, or assisted in any FEHA proceeding.
- 4) For purposes of the Legislative Whistleblower Protection Act, defines relevant terms; “protected disclosure” is defined as “a communication by a legislative employee that is made in good faith alleging that a Member of the Legislature or legislative employee engaged in, or will engage in, activity that may constitute a violation of any law, including sexual harassment, or of a legislative code of conduct.”

FISCAL EFFECT: None. This bill is keyed non-fiscal.

COMMENTS:

- 1) Purpose of the bill: In support of the bill, the author states:

This bill is intended to complement AB 403. While in the State Assembly I proposed whistleblower protection for legislative staff back in 2012. This year, I was happy to be the original coauthor of Assembly Bill 403 which continues this important mission - protecting staff. The goal of this companion measure, SB 419, is to protect legislative staffers and those that advocate before the legislature from retaliation for coming forward and reporting all forms of harassment in the Capitol. In addition, SB 419 would also require the Legislature to keep and maintain records of harassment complaints. I believe these two important measures will provide desperately needed safeguards to protect those that work in the legislative community. As the father of two daughters, I want to make sure the legislature would be a place at which I would be comfortable with them working.

- 2) Proposed Amendment: The Committee may wish to consider the following amendment to clarify that an act taken by a vote of the house or deliberation of legislative matters should not be considered an act of retaliation:

On page 5, lines 17-19, insert:

A vote of the house or the deliberation of legislative matters within its jurisdiction shall not be considered an act to discharge, expel, or otherwise discriminate against a legislative advocate or a legislative employee for purposes of this subdivision.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Michael Erke / RLS. / (916) 319-2800

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RN 18 19866 PAGE 1
Substantive

AMENDMENTS TO SENATE BILL NO. 419
AS AMENDED IN ASSEMBLY AUGUST 21, 2018

Amendment 1

On page 5, in lines 17 and 18, strike out “This subdivision does not apply to an act taken by a” and insert:

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Amendment 2

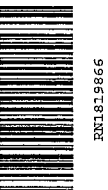
On page 5, in line 18, strike out the second “to”

Amendment 3

On page 5, in line 19, strike out “jurisdiction.” and insert:

jurisdiction shall not be considered an act to discharge, expel, or otherwise discriminate against a legislative advocate or a legislative employee for purposes of this subdivision.

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PROPOSED AMENDMENTS

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PROPOSED AMENDMENTS TO SENATE BILL NO. 419

AMENDED IN ASSEMBLY AUGUST 21, 2018

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN SENATE JANUARY 24, 2018

AMENDED IN SENATE JANUARY 11, 2018

AMENDED IN SENATE JANUARY 4, 2018

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017



SENATE BILL

No. 419

Introduced by Senators Portantino and Leyva
(Coauthors: Senators Atkins, Bates, Beall, De León, Dodd, Galgiani,
Hernandez, Hertzberg, Hill, McGuire, Roth, Stern, and Wiener)
(Coauthors: Assembly Members Burke, Cervantes, and Rubio)

February 15, 2017

An act to amend Section 9149.32 of, and to add Article 12 (commencing with Section 9149.38) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to the Legislature, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Portantino. Legislature: Whistleblower protection and retaliation prevention.

Existing law, the Legislative Employee Whistleblower Protection Act, imposes criminal and civil liability on a Member of the Legislature or legislative employee, as defined, who interferes with, or retaliates

PROPOSED AMENDMENTS

SB 419

— 2 —

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SUBSTANTIVE**

against, a legislative employee's exercise of the right to make a protected disclosure, which is defined as a good faith allegation made by a legislative employee to specified entities that a Member of the Legislature or a legislative employee has engaged in, or will engage in, activity that may constitute a violation of law or a violation of a legislative standard of conduct.

This bill would define "protected disclosure" for purposes of that act to also include a complaint made at the request of a legislative employee and a complaint made against a nonemployee in specified circumstances.

Existing law, the California Fair Employment and Housing Act (FEHA), protects and safeguards the right and opportunity of all persons to generally seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of enumerated protected categories. Existing law also precludes an employer, labor organization, employment agency, or person from discharging, expelling, or otherwise discriminating against any person because the person has opposed any practices forbidden under FEHA or because the person has filed a complaint, testified, or assisted in any FEHA proceeding.

Existing law, the Unruh Civil Rights Act, states that all people in California are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, no matter their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status. Existing law establishes a cause of action for violations of that act. Existing law also separately establishes liability for sexual harassment if a plaintiff proves specified elements, including, among other things, that there is a business, service, or professional relationship between the plaintiff and defendant.

This bill would declare that neither house of the Legislature may retaliate against a legislative advocate or employee, as defined, because that person has opposed any practices forbidden under the above provisions, or filed a complaint, testified, or assisted in any proceeding relating to a complaint of harassment under those provisions. This bill would impose civil liability for a violation of that prohibition. This bill would also require each house of the Legislature to maintain a record of each harassment complaint made to that house for a period of at least 12 years after the complaint is made.

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

PROPOSED AMENDMENTS

— 3 —

SB 419

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SUBSTANTIVE

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

Page 3 1 SECTION 1. Section 9149.32 of the Government Code is
 2 amended to read:
 3 9149.32. For the purposes of this article, the following terms
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 5 (a) "Interfere" means to intimidate, threaten, coerce, or
 6 command, or attempt to intimidate, threaten, coerce, or command
 7 a legislative employee who attempts to make a protected disclosure.
 8 (b) "Legislative employee" means an individual, other than a
 9 Member of either house of the Legislature, who is, or has been,
 10 employed by either house of the Legislature. "Legislative
 11 employee" includes volunteers, interns, fellows, and applicants.
 12 (c) "Protected disclosure" means a communication that is both
 13 of the following:
 14 (1) Made by a legislative employee in good faith alleging that
 16 any of the following engaged in, or will engage in, activity that
 17 may constitute a violation of any law, including sexual harassment,
 18 or of a legislative code of conduct:
 20 (A) A Member of the Legislature.
 21 (B) A legislative employee.
 22 (C) A person who is neither a Member of the Legislature nor a
 23 legislative employee whose behavior affects a Member or
 24 legislative employee who is engaged in a work-related activity.
 25 (2) Protected under the California Fair Employment and
 26 Housing Act (Part 2.8 (commencing with Section 12900) of
 27 Division 3 of Title 2 of the Government Code) or made to any of
 28 the following entities:
 30 (A) The Senate Committee on Rules, or its publicly identified
 31 designee.
 33 (B) The Assembly Committee on Rules, or its publicly identified
 34 designee.
Page 4 1 (C) The Joint Committee on Rules, or its publicly identified
 2 designee.
 4 (D) A state or local law enforcement agency.
 6 (E) A state agency authorized to investigate potential violations
 7 of state law.

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SUBSTANTIVE

— 4 —

PROPOSED AMENDMENTS

— 5 —

SB 419

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SUBSTANTIVE

Page 5 9 9149.40. (a) A house of the Legislature shall not discharge,
10 expel, or otherwise discriminate against a legislative advocate or
11 a legislative employee because that person has opposed any
12 practices forbidden under the California Fair Employment and
13 Housing Act (Part 2.8 (commencing with Section 12900) of
14 Division 3), opposed any practice actionable under Section 51 or
15 51.9 of the Civil Code, or filed a complaint, testified, or assisted
16 in any proceeding relating to a complaint of discriminatory
17 harassment made pursuant to those laws. ~~This subdivision does~~
18 ~~not apply to an act taken by a~~ A vote of the house or to the
19 deliberation of legislative matters within its ~~jurisdiction.~~
+ *jurisdiction shall not be considered an act to discharge, expel, or*
+ *otherwise discriminate against a legislative advocate or a*
+ *legislative employee for purposes of this subdivision.*
20 (b) A violation of this section is subject to a fine not to exceed
21 ten thousand dollars (\$10,000).
22 (c) This article does not limit either of the following:
23 (1) The application of any other rights or remedies under federal
24 or state law.
25 (2) The authority conferred upon the Attorney General, any
26 state or federal law enforcement agency, or any other commission,
27 department, or agency authorized to investigate the Legislature.
28 (d) The civil fine imposed under this article is in addition to
29 those provided by any other federal or state law, including Section
30 1102.5 of the Labor Code and the California Fair Employment
31 and Housing Act (Part 2.8 (commencing with Section 12900) of
32 Division 3 of Title 2 of the Government Code).
33 9149.41. Each house of the Legislature shall implement a
34 system to maintain a record of each discriminatory harassment
35 complaint made to that house for a period of at least 12 years after
36 the complaint is made.
37 SEC. 3. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
Page 6 1 the meaning of Article IV of the California Constitution and shall
2 go into immediate effect. The facts constituting the necessity are:
3 To enable victims and witnesses of discriminatory harassment
4 to come forward as soon as possible without fear of retaliation, it
5 is necessary that this bill take effect immediately.

Amendment 1
Amendment 2
Amendment 3

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Assembly Concurrent Resolution

No. 285

Introduced by Assembly Member Gonzalez Fletcher
(Coauthor: Senator Anderson)

August 20, 2018

Assembly Concurrent Resolution No. 285—Relative to Diaper Need Awareness Week.

LEGISLATIVE COUNSEL’S DIGEST

ACR 285, as introduced, Gonzalez Fletcher. Diaper Need Awareness Week.

This measure would proclaim the week of September 24, 2018, to September 30, 2018, as Diaper Need Awareness Week and encourage California citizens to support organizations that help alleviate diaper need.

Fiscal committee: no.

- 1 WHEREAS, Diaper need occurs when a family does not have
2 a sufficient supply of clean diapers to ensure that infants and
3 toddlers are clean and healthy, and can adversely affect the health
4 and well-being of young children and their families; and
5 WHEREAS, One in three families experiences diaper need at
6 some time while their children are less than three years of age, and
7 nearly half of families delay changing a diaper to extend their
8 supply; and
9 WHEREAS, The average child requires an average of at least
10 50 diaper changes per week over three years, making them a
11 necessary supply; and

1 WHEREAS, Diaper need creates a barrier to child care due to
2 the common requirement that a daily supply of diapers be provided
3 by the child's parent or guardian; and

4 WHEREAS, California has a vested interest in the health and
5 economic mobility of low- and moderate-income families, and
6 therefore in reducing diaper need; and

7 WHEREAS, California is proud to be home to several strong
8 nonprofit organizations working at the state and local levels to
9 provide diapers to families in need; now therefore, be it

10 *Resolved by the Assembly of the State of California, the Senate*
11 *thereof concurring*, That the Legislature proclaims the week of
12 September 24, 2018, to September 30, 2018, as Diaper Need
13 Awareness Week and encourages Californians to support
14 organizations that help alleviate diaper need; and be it further

15 *Resolved*, That the Chief Clerk of the Assembly transmit copies
16 of this resolution to the author for appropriate distribution.

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Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
ACR 285 (Gonzalez Fletcher) – As Introduced August 20, 2018

SUBJECT: Diaper Need Awareness Week.

SUMMARY: Proclaims the week of September 24, 2018, to September 30, 2018, as Diaper Need Awareness Week and encourages California citizens to support organizations that help alleviate diaper need. Specifically, **this resolution** makes the following legislative findings:

- 1) Diaper need occurs when a family does not have a sufficient supply of clean diapers to ensure that infants and toddlers are clean and healthy, and can adversely affect the health and well-being of young children and their families.
- 2) One in three families experiences diaper need at some time while their children are less than three years of age, and nearly half of families delay changing a diaper to extend their supply. The average child requires an average of at least 50 diaper changes per week over three years, making them a necessary supply.
- 3) Diaper need creates a barrier to child care due to the common requirement that a daily supply of diapers be provided by the child's parent or guardian.
- 4) California has a vested interest in the health and economic mobility of low- and moderate-income families, and therefore in reducing diaper need; and, California is proud to be home to several strong nonprofit organizations working at the state and local levels to provide diapers to families in need.

FISCAL EFFECT: None

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Nicole Willis / RLS. / (916) 319-2800

Introduced by Senator Fuller

June 18, 2018

Senate Concurrent Resolution No. 153—Relative to the National Day of the Cowboy.

LEGISLATIVE COUNSEL’S DIGEST

SCR 153, as introduced, Fuller. National Day of the Cowboy.

This measure would recognize July 28, 2018, as the National Day of the Cowboy, and would encourage the people of the State of California to observe the day with appropriate ceremonies and activities.

Fiscal committee: no.

- 1 WHEREAS, Pioneering men and women, known as cowboys,
2 helped establish America’s frontiers; and
3 WHEREAS, The cowboy archetype transcends gender,
4 generations, ethnicity, geographic boundaries, and political
5 affiliation; and
6 WHEREAS, The cowboy embodies honesty, integrity, courage,
7 compassion, and determination; and
8 WHEREAS, The cowboy spirit exemplifies patriotism and
9 strength of character; and
10 WHEREAS, The cowboy is an excellent steward of the land
11 and its creatures; and
12 WHEREAS, The core values expressed within the Cowboy
13 Code of Conduct continue to inspire the pursuit of the highest
14 caliber of personal integrity; and
15 WHEREAS, Cowboy traditions have been part of the American
16 landscape and culture since 1523, and today’s cowboys and

1 cowgirls continue to strive to serve and to preserve and perpetuate
2 this unique element of America's heritage; and

3 WHEREAS, The cowboy continues to be an important part of
4 the economy through the work of approximately 656,500 ranches
5 in all 50 states; and

6 WHEREAS, Membership and participation in the National Day
7 of the Cowboy Celebration (NDOC), Single Action Shooting
8 Society (SASS), Working Ranch Cowboys Association (WRCA),
9 Cowboy Mounted Shooting Association (CMSA), American
10 Quarter Horse Association (AQHA), Professional Rodeo Cowboys
11 Association (PRCA), Championship Bull Riding (CBR), Women's
12 Professional Rodeo Association (WPRA), and other organizations
13 that encompass the livelihood of the cowboy continue to expand
14 nationally and internationally; and

15 WHEREAS, The cowboy and his or her horse is a central figure
16 in literature, art, film, poetry, photography, and music; and

17 WHEREAS, The cowboy is a true American icon occupying a
18 central place in the public's imagination; now, therefore, be it

19 *Resolved by the Senate of the State of California, the Assembly*
20 *thereof concurring*, That the Legislature recognizes July 28, 2018,
21 as the "National Day of the Cowboy"; and be it further

22 *Resolved*, That the Legislature encourages the people of the
23 State of California to observe the day with appropriate ceremonies
24 and activities; and be it further

25 *Resolved*, That the Secretary of the Senate transmit copies of
26 this resolution to the author for appropriate distribution.

O

Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
SCR 153 (Fuller) – As Introduced June 18, 2018

SENATE VOTE: 38-0

SUBJECT: National Day of the Cowboy.

SUMMARY: Recognizes July 28, 2018, as the National Day of the Cowboy. Specifically, **this resolution** makes the following legislative findings:

- 1) Pioneering men and women, known as cowboys, helped establish America's frontiers.
- 2) The cowboy archetype transcends gender, generations, ethnicity, geographic boundaries, and political affiliation; and, the cowboy embodies honesty, integrity, courage, compassion, and determination.
- 3) The cowboy traditions have been part of the American landscape and culture since 1523; and, today's cowboys and cowgirls continue to strive to serve and to preserve and perpetuate this unique element of America's heritage.
- 4) The core values expressed within the Cowboy Code of Conduct continue to inspire the pursuit of the highest caliber of personal integrity.
- 5) The cowboy continues to be an important part of the economy through the work of approximately 656,500 ranches in all 50 states.
- 6) The cowboy and his or her horse is a central figure in literature, art, film, poetry, photography, and music; and, the cowboy is a true American icon occupying a central place in the public's imagination.

FISCAL EFFECT: None

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Nicole Willis / RLS. / (916) 319-2800

Introduced by Senator Fuller

July 2, 2018

Senate Concurrent Resolution No. 158—Relative to Chiari Malformation Awareness Month.

LEGISLATIVE COUNSEL'S DIGEST

SCR 158, as introduced, Fuller. Chiari Malformation Awareness Month.

This measure would declare the month of September 2018 as Chiari Malformation Awareness Month.

Fiscal committee: no.

- 1 WHEREAS, Chiari Malformation is a serious neurological
2 disorder affecting more than 300,000 people in the United States;
3 and
4 WHEREAS, Chiari Malformation was first identified by
5 Austrian pathologist Professor Hans Chiari in the 1890s and
6 categorized into four types in order of severity; and
7 WHEREAS, Chiari Malformation is a congenital malformation
8 in which the bottom of the brain, known as the cerebellum, is
9 crowded in the skull cavity and forces the lower tips of the
10 cerebellar hemispheres, or tonsils, into the hole in the bottom of
11 the skull, or foramen magnum; and
12 WHEREAS, Chiari Malformations are defects in the cerebellum,
13 the part of the brain that controls balance, and this creates pressure
14 on the cerebellum and brain stem and may block the normal flow
15 of cerebral spinal fluid to and from the brain; and
16 WHEREAS, Symptoms usually appear during adolescence or
17 early adulthood and can include severe head and neck pain, vertigo,

1 muscle weakness, balance problems, blurred or double vision,
2 difficulty swallowing, and sleep apnea; and

3 WHEREAS, Individuals who have Chiari Malformation may
4 often have related conditions, such as hydrocephalus, spina bifida,
5 syringomyelia, tethered spinal cord syndrome, and spinal curvature;
6 and

7 WHEREAS, The National Institute of Neurological Disorders
8 and Stroke of the National Institutes of Health is conducting
9 research to find alternative surgical options and to identify the
10 cause of Chiari Malformations to create improved treatment and
11 prevention plans; now, therefore, be it

12 *Resolved by the Senate of the State of California, the Assembly*
13 *thereof concurring*, That the Legislature declares September 2018
14 as Chiari Malformation Awareness Month; and be it further

15 *Resolved*, That the Secretary of the Senate transmit copies of
16 this resolution to the author for appropriate distribution.

O

Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
SCR 158 (Fuller) – As Introduced July 2, 2018

SENATE VOTE: 38-0

SUBJECT: Chiari Malformation Awareness Month.

SUMMARY: Declares the month of September 2018 as Chiari Malformation Awareness Month. Specifically, **this resolution** makes the following legislative findings:

- 1) Chiari Malformation is a serious neurological disorder affecting more than 300,000 people in the United States.
- 2) Chiari Malformation is a congenital malformation in which the bottom of the brain, known as the cerebellum, is crowded in the skull cavity and forces the lower tips of the cerebellar hemispheres, or tonsils, into the hole in the bottom of the skull, or foramen magnum.
- 3) Chiari Malformations are defects in the cerebellum, the part of the brain that controls balance, and this creates pressure on the cerebellum and brain stem and may block the normal flow of cerebral spinal fluid to and from the brain.
- 4) Symptoms usually appear during adolescence or early adulthood and can include severe head and neck pain, vertigo, muscle weakness, balance problems, blurred or double vision, difficulty swallowing, and sleep apnea.
- 5) Individuals who have Chiari Malformation may often have related conditions, such as hydrocephalus, spina bifida, syringomyelia, tethered spinal cord syndrome, and spinal curvature.
- 6) The National Institute of Neurological Disorders and Stroke of the National Institutes of Health is conducting research to find alternative surgical options and to identify the cause of Chiari Malformations to create improved treatment and prevention plans.

FISCAL EFFECT: None

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Nicole Willis / RLS. / (916) 319-2800

Introduced by Senator McGuire
(Principal coauthors: Senators Anderson, Atkins, Bates, Chang,
De León, Dodd, Fuller, Galgiani, Hertzberg, Jackson, Leyva,
Mitchell, Nguyen, Nielsen, Pan, Skinner, and Wiener)

August 6, 2018

Senate Concurrent Resolution No. 160—Relative to California
Metastatic Breast Cancer Awareness Day.

LEGISLATIVE COUNSEL’S DIGEST

SCR 160, as introduced, McGuire. Metastatic Breast Cancer
Awareness Day.

This measure would proclaim October 13, 2018, as Metastatic Breast
Cancer Awareness Day, and requests the citizens of California, on that
day, to become informed and aware of this disease.

Fiscal committee: no.

1 WHEREAS, Thousands of families across California are affected
2 by metastatic breast cancer; and
3 WHEREAS, There has been tremendous progress in the last 30
4 years related to early detection and routine diagnosis of breast
5 cancer; and
6 WHEREAS, In contrast, there has not been as much progress
7 related to the treatment of advanced breast cancer, also referred
8 to as metastatic breast cancer. Metastatic breast cancer patients
9 continue to face many unique challenges, such as the emotional
10 and physical demands of treatment. This devastating stage of breast
11 cancer occurs when cancer spreads beyond the breast to other parts
12 of the body, including, but not limited to, the bones, lungs, liver,
13 and brain; and

1 WHEREAS, As of today, no cure exists for metastatic breast
2 cancer, and those with metastatic breast cancer may continue
3 treatment with the goal of extending the best possible quality of
4 life; and

5 WHEREAS, More than one in eight women in the United States
6 will be diagnosed with metastatic breast cancer in their lifetime.
7 In California, it is estimated that 29,360 women will be diagnosed
8 with breast cancer in 2018; and

9 WHEREAS, In the United States, it is estimated that more than
10 154,000 women have metastatic breast cancer; and

11 WHEREAS, In 2018, it is estimated that more than 4,500 women
12 in California will die from breast cancer, and nearly all cases will
13 involve metastatic breast cancer; and

14 WHEREAS, Metastatic breast cancer affects all races and
15 socioeconomic classes. The greatest incidence of breast cancer
16 occurs in white women, but the mortality rate related to the disease
17 is higher for African American women, and breast cancer is the
18 leading cause of cancer-related death for Latina women; and

19 WHEREAS, Discussions of breast cancer should include a
20 spectrum of issues, including, but not limited to, screening,
21 treatment, and support of patients with metastatic breast cancer;
22 and

23 WHEREAS, For patients, and families, the health and economic
24 burdens of metastatic breast cancer are substantial; and

25 WHEREAS, Metastatic breast cancer cuts short the lives of too
26 many people in California, and leaves a lasting effect on families;
27 and

28 WHEREAS, Metastatic breast cancer remains incurable, but
29 there is hope. Extensive research efforts are underway to address
30 this disease; and

31 WHEREAS, Clinicaltrials.gov is a searchable database that
32 provides patients, family members, and the public with information
33 about current, ongoing clinical research studies; and

34 WHEREAS, Additional research efforts are needed on topics
35 related to the personal and social burdens of metastatic breast
36 cancer, the needs of the patient, and the development of new and
37 more effective treatments; and

38 WHEREAS, Observation of Metastatic Breast Cancer Awareness
39 Day sheds light on the devastation that metastatic breast cancer
40 brings to communities throughout California; and

1 WHEREAS, Individuals diagnosed with metastatic breast cancer
2 can speak with their physicians to learn more about the disease,
3 and to find support groups either in their communities or online;
4 now, therefore, be it

5 *Resolved by the Senate of the State of California, the Assembly*
6 *thereof concurring*, That the Legislature hereby proclaims October
7 13, 2018, as Metastatic Breast Cancer Awareness Day, and requests
8 the residents of California, on that day, to become informed and
9 aware of metastatic breast cancer; and be it further

10 *Resolved*, That the Secretary of the Senate transmit copies of
11 this resolution to the author for appropriate distribution.

O

Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
SCR 160 (McGuire) – As Introduced August 6, 2018

SENATE VOTE: 38-0

SUBJECT: Metastatic Breast Cancer Awareness Day.

SUMMARY: Proclaims October 13, 2018, as Metastatic Breast Cancer Awareness Day and requests that the citizens of California, on that day, to become informed and aware of this disease. Specifically, **this resolution** makes the following legislative findings:

- 1) Thousands of families across California are affected by metastatic breast cancer. As of today, no cure exists for metastatic breast cancer, and those with metastatic breast cancer may continue treatment with the goal of extending the best possible quality of life.
- 2) More than one in eight women in the United States will be diagnosed with metastatic breast cancer in their lifetime. In 2018, it is estimated that that in California, 29,360 women will be diagnosed with breast cancer. It is also estimated that more than 4,500 women in California will die from breast cancer, and nearly all cases will involve metastatic breast cancer.
- 3) Metastatic breast cancer affects all races and socioeconomic classes. The greatest incidence of breast cancer occurs in white women, but the mortality rate related to the disease is higher for African American women, and breast cancer is the leading cause of cancer-related death for Latina women.
- 4) For patients, and families, the health and economic burdens of metastatic breast cancer are substantial. Metastatic breast cancer cuts short the lives of too many people in California, and leaves a lasting effect on families.
- 5) Clinicaltrials.gov is a searchable database that provides patients, family members, and the public with information about current, ongoing clinical research studies.
- 6) Observation of Metastatic Breast Cancer Awareness Day sheds light on the devastation that metastatic breast cancer brings to communities throughout California.

FISCAL EFFECT: None

REGISTERED SUPPORT / OPPOSITION:

Support

California Affiliates of Susan G. Komen

Opposition

None on file

Analysis Prepared by: Nicole Willis / RLS. / (916) 319-2800



August 23, 2018

The Honorable Ken Cooley
Chair, Assembly Rules Committee
State Capitol, Room 3013
Sacramento, California 95814

Re: SCR 160 (McGuire) – SUPPORT

Dear Chair Cooley,

The six California Affiliates of Susan G. Komen® are proud to sponsor Senate Concurrent Resolution (SCR) 160, recognizing California Metastatic Breast Cancer Awareness Day.

This measure would proclaim October 13, 2018 as Metastatic Breast Cancer Awareness Day, and requests the citizens of California, on that day, to become informed and aware of this disease.

At Susan G. Komen, our mission is to save lives and end breast cancer forever by empowering others, ensuring quality care for all and energizing science to find the cures. Breast cancer affects far too many Californians - it is estimated that approximately one in every eight women will have breast cancer during their lifetime. In 2018, it is also estimated that more than 4,500 women in California will die from breast cancer, and nearly all cases will involve metastatic breast cancer.

As of today, no cure exists for metastatic breast cancer, but there is hope. Extensive research efforts are underway to address this disease. We thank you for your introduction to this very important resolution.

Sincerely,

Jill Eaton
Executive Director
Inland Empire Affiliate
jeaton@komenie.org

Mark K. Pilon
Executive Director
Los Angeles County Affiliate
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Lisa Wolter
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Shaina Gross
President & CEO
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Joanne Horning
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Introduced by Senator Lara

(Coauthors: Senators Atkins, Dodd, Jackson, and McGuire)

(Coauthors: Assembly Members Aguiar-Curry, Dahle, Flora, O'Donnell,
and Wood)

August 8, 2018

Senate Concurrent Resolution No. 165—Relative to California
Firefighter Appreciation Month and California Firefighters Memorial
Day.

LEGISLATIVE COUNSEL'S DIGEST

SCR 165, as introduced, Lara. California Firefighter Appreciation
Month and California Firefighters Memorial Day.

This measure would proclaim the month of September 2018 as
California Firefighter Appreciation Month and September 29, 2018, as
California Firefighters Memorial Day.

Fiscal committee: no.

- 1 WHEREAS, The California Firefighters Memorial, located on
- 2 the grounds of the State Capitol, serves to honor and commemorate
- 3 California firefighters who unwaveringly serve our great state with
- 4 pride, courage, and honor; and
- 5 WHEREAS, The California Firefighters Memorial is also a
- 6 symbol of gratitude and appreciation to the men and women of
- 7 the fire service who put their lives on the line each day to protect
- 8 the people, property, and beauty of California; and
- 9 WHEREAS, Each of the over 1,300 names engraved on the
- 10 brushed limestone walls of the California Firefighters Memorial
- 11 serves as a timeless tribute to the finest and bravest of our state
- 12 who have made the ultimate sacrifice as firefighters; and

1 WHEREAS, The California Firefighters Memorial is the only
2 state monument capturing the names in perpetuity of those
3 courageous firefighters in California who have put service to our
4 great State of California above all else; and

5 WHEREAS, Many of the fallen firefighters whose names adorn
6 the California Firefighters Memorial died either under tragic,
7 traumatic circumstances or suffered and ultimately succumbed to
8 job-caused diseases, such as occupational cancer, as a result of the
9 hazardous nature of their work, including routine exposure to toxic
10 chemicals; and

11 WHEREAS, On September 29, 2018, hundreds of firefighters
12 and their families from throughout the state will gather in
13 Sacramento with their fellow Californians for the 16th Annual
14 California Firefighters Memorial Ceremony to honor the men and
15 women of the fire service who have selflessly given their lives to
16 protect California; now, therefore, be it

17 *Resolved by the Senate of the State of California, the Assembly*
18 *thereof concurring*, That the Legislature hereby proclaims the
19 month of September 2018 as California Firefighter Appreciation
20 Month and September 29, 2018, as California Firefighters
21 Memorial Day; and be it further

22 *Resolved*, That Californians are urged to always remember the
23 firefighters who have given their lives in the line of duty and
24 express their appreciation to those firefighters who continue to
25 protect our families; and be it further

26 *Resolved*, That the Secretary of the Senate transmit copies of
27 this resolution to the author for appropriate distribution.

O

Date of Hearing: August 24, 2018

ASSEMBLY COMMITTEE ON RULES
Ken Cooley, Chair
SCR 165 (Lara) – As Introduced August 8, 2018

SENATE VOTE: 38-0

SUBJECT: California Firefighter Appreciation Month and California Firefighters Memorial Day.

SUMMARY: Proclaims the month of September 2018 as California Firefighter Appreciation Month and September 29, 2018, as California Firefighters Memorial Day. Specifically, **this resolution** makes the following legislative findings:

- 1) On September 29, 2018, hundreds of firefighters and their families from throughout the state will gather in Sacramento with their fellow Californians for the 16th Annual California Firefighters Memorial Ceremony to honor the men and women of the fire service who have selflessly given their lives to protect California.
- 2) The California Firefighters Memorial, located on the grounds of the State Capitol, serves to honor and commemorate California firefighters who unwaveringly serve our great state with pride, courage, and honor.
- 3) The California Firefighters Memorial is also a symbol of gratitude and appreciation to the men and women of the fire service who put their lives on the line each day to protect the people, property, and beauty of California.
- 4) Each of the over 1,300 names engraved on the brushed limestone walls of the California Firefighters Memorial serves as a timeless tribute to the finest and bravest of our state who have made the ultimate sacrifice as firefighters.

FISCAL EFFECT: None

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Nicole Willis / RLS. / (916) 319-2800

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JUNE 14, 2018

AMENDED IN SENATE MAY 25, 2018

AMENDED IN SENATE APRIL 26, 2018

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1121

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

February 13, 2018

An act to amend Sections ~~1798.80, 1798.81, 1798.81.5, 1798.83, and 1798.84 of, and to amend the heading of Title 1.81 (commencing with Section 1798.80) of Part 4 of Division 3 of, 1798.100, 1798.105, 1798.110, 1798.115, 1798.120, 1798.125, 1798.130, 1798.135, 1798.140, 1798.145, 1798.150, 1798.185, 1798.192, 1798.196, and 1798.198~~ of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1121, as amended, Dodd. ~~Personal information—California Consumer Privacy Act of 2018.~~

(1) Existing law, the California Consumer Privacy Act of 2018, grants, commencing on January 1, 2020, a consumer various rights with regard to personal information relating to that consumer that is held by a business, including the right to request a business to delete any personal information about the consumer collected by the business, and requires the business to comply with a verifiable consumer request to that effect, unless it is necessary for the business or service provider

to maintain the customer's personal information in order to carry out specified acts. The act requires a business that collects personal information about a consumer to disclose the consumer's right to delete personal information described above on its Internet Web site or in its online privacy policy or policies.

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

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

This bill would provide that the rights afforded to consumers and the obligations imposed on any business under the act does not apply if those rights or obligations would infringe on the business's speech rights that state or federal courts have recognized as noncommercial speech. The bill would also clarify that the act does not apply if it is in conflict with the United States Constitution.

(3) The act generally provides for its enforcement by the Attorney General, but also provides for a private right of action in connection with certain unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information, as defined for this purpose, provided that the consumer bringing an action notify the Attorney General of the action in accordance with a specified process.

This bill would clarify that the only private right of action permitted under the act is the private right of action described above for violations of unauthorized access and exfiltration, theft, or disclosure of a consumer's nonencrypted or nonredacted personal information.

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

~~Existing law requires a business to take all reasonable steps to dispose of customer records containing personal information and imposes other requirements on a business relating to the custody of customer records containing personal information. Existing law defines the term "customer" for purposes of those provisions to mean an individual who~~

~~provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service from the business.~~

~~This bill would instead make those provisions applicable to consumers and consumer records, would define “consumer” for purposes of those provisions to mean a natural person, and would make other related and conforming changes.~~

~~Existing law requires a business that owns, licenses, or maintains personal information, as defined, about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, as specified. Existing law requires a person or business conducting business in California that owns or licenses computerized data that includes personal information to disclose a breach in the security of the data to a resident of California whose encrypted or unencrypted personal information was, or is reasonably believed to have been, acquired by an authorized person, as specified. Existing law allows a customer injured by a violation of those provisions to institute a civil action to recover damages and authorizes a court to enjoin a business that violates those provisions.~~

~~This bill would authorize a consumer whose nonencrypted and nonredacted personal information has been breached by a violation of those provisions or who has not been properly notified of a breach of his or her personal information in violation of those provisions to institute a civil action for specified remedies, including damages not less than specified amounts, injunctive and declaratory relief, or any other remedy the court deems proper. This bill would prohibit a consumer from bringing that action more than 4 years after the person discovered, or through reasonable diligence should have discovered, the violation.~~

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

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

- 1 SECTION 1. Section 1798.100 of the Civil Code, as added by
- 2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
- 3 read:
- 4 1798.100. (a) A consumer shall have the right to request that
- 5 a business that collects a consumer’s personal information disclose

1 to that consumer the categories and specific pieces of personal
2 information the business has collected.

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

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

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

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

30 ~~(1) Retain any personal information collected for a single,~~
31 ~~one-time transaction, if the information is not sold or retained by~~
32 ~~the business.~~

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

36 *SEC. 2. Section 1798.105 of the Civil Code, as added by Section*
37 *3 of Chapter 55 of the Statutes of 2018, is amended to read:*

38 1798.105. (a) A consumer shall have the right to request that
39 a business delete any personal information about the consumer
40 which the business has collected from the consumer.

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

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

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

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

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

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

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

30 (5) Comply with the California Electronic Communications
31 Privacy Act pursuant to Chapter 3.6 (commencing with Section
32 1546) of Title 12 of Part 2 of the Penal Code.

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

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

4 (8) Comply with a legal obligation.

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

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

10 1798.110. (a) A consumer shall have the right to request that
11 a business that collects personal information about the consumer
12 disclose to the consumer the following:

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

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

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

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

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

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

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

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

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

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

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

39 (5) The specific pieces of personal information the business has
40 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.

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

1798.115. (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 third party 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

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

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

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

10 (b) A business that sells consumers' personal information to
11 third parties shall provide notice to consumers, pursuant to
12 subdivision (a) of Section 1798.135, that this information may be
13 sold and that consumers have the right to ~~opt-out~~ *"right to opt-out"*
14 of the sale of their personal information.

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

24 ~~(d)~~

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

35 (d) ~~A business that has received direction from a consumer not~~
36 ~~to sell the consumer's personal information or, in the case of a~~
37 ~~minor consumer's personal information has not received consent~~
38 ~~to sell the minor consumer's personal information shall be~~
39 ~~prohibited, pursuant to paragraph (4) of subdivision (a) of Section~~
40 ~~1798.135, from selling the consumer's personal information after~~

1 *its receipt of the consumer's direction, unless the consumer*
2 *subsequently provides express authorization for the sale of the*
3 *consumer's personal information.*

4 SEC. 6. *Section 1798.125 of the Civil Code, as added by Section*
5 *3 of Chapter 55 of the Statutes of 2018, is amended to read:*

6 1798.125. (a) (1) A business shall not discriminate against a
7 consumer because the consumer exercised any of the consumer's
8 rights under this title, including, but not limited to, by:

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

10 (B) Charging different prices or rates for goods or services,
11 including through the use of discounts or other benefits or imposing
12 penalties.

13 (C) Providing a different level or quality of goods or services
14 to the consumer, ~~if the consumer exercises the consumer's rights~~
15 ~~under this title.~~ *consumer.*

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

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

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

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

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

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

1 *SEC. 7. Section 1798.130 of the Civil Code, as added by Section*
2 *3 of Chapter 55 of the Statutes of 2018, is amended to read:*

3 1798.130. (a) In order to comply with Sections 1798.100,
4 1798.105, 1798.110, 1798.115, and 1798.125, ~~in a form that is~~
5 ~~reasonably accessible to consumers~~, a business ~~shall~~: *shall, in a*
6 *form that is reasonably accessible to consumers:*

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

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

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

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

37 (B) Identify by category or categories the personal information
38 collected about the consumer in the preceding 12 months by
39 reference to the enumerated category or categories in subdivision
40 (c) that most closely describes the personal information collected.

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

2 (A) Identify the consumer and associate the information
3 provided by the consumer in the verifiable *consumer* request to
4 any personal information previously collected by the business
5 about the consumer.

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

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

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

33 (A) A description of a consumer's rights pursuant to Sections
34 1798.110, 1798.115, and 1798.125 and one or more designated
35 methods for submitting requests.

36 (B) For purposes of subdivision (c) of Section 1798.110, a list
37 of the categories of personal information it has collected about
38 consumers in the preceding 12 months by reference to the
39 enumerated category or categories in subdivision (c) that most
40 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.

(6) 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 Sections 1798.110, 1798.115, 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's 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.

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

1798.135. (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~~ *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~~ *opt-out* of the sale of the consumer's personal information. A business shall not

1 require a consumer to create an account in order to direct the
2 business not to sell the consumer's personal information.

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

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

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

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

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

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

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

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

36 (c) A consumer may authorize another person solely to ~~opt-out~~
37 *opt-out* of the sale of the consumer's personal information on the
38 consumer's behalf, and a business shall comply with an ~~opt-out~~
39 *opt-out* request received from a person authorized by the consumer

1 to act on the consumer's behalf, pursuant to regulations adopted
2 by the Attorney General.

3 *SEC. 9. Section 1798.140 of the Civil Code, as added by Section*
4 *3 of Chapter 55 of the Statutes of 2018, is amended to read:*

5 1798.140. For purposes of this title:

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

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

23 (c) "Business" means:

24 (1) A sole proprietorship, partnership, limited liability company,
25 corporation, association, or other legal entity that is organized or
26 operated for the profit or financial benefit of its shareholders or
27 other owners, that collects consumers' personal information, or
28 on the behalf of which such information is collected and that alone,
29 or jointly with others, determines the purposes and means of the
30 processing of consumers' personal information, that does business
31 in the State of California, and that satisfies one or more of the
32 following thresholds:

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

36 (B) Alone or in combination, annually buys, receives for the
37 ~~business~~² *business's* commercial purposes, sells, or shares for
38 commercial purposes, alone or in combination, the personal
39 information of 50,000 or more consumers, households, or devices.

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

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

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

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

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

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

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

36 (5) Performing services on behalf of the business or service
37 provider, including maintaining or servicing accounts, providing
38 customer service, processing or fulfilling orders and transactions,
39 verifying customer information, processing payments, providing
40 financing, providing advertising or marketing services, providing

1 analytic services, or providing similar services on behalf of the
2 business or service provider.

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

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

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

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

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

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

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

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

36 (3) Has implemented business processes to prevent inadvertent
37 release of deidentified information.

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

39 (i) “Designated methods for submitting requests” means a
40 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 Web site 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 1798.145, 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 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:

(A) Identifiers such as a real name, alias, postal address, unique personal identifier, online ~~identifier~~ *identifier*, Internet Protocol address, email address, account name, social security number,

1 driver's license number, passport number, or other similar
2 identifiers.

3 (B) Any categories of personal information described in
4 subdivision (e) of Section 1798.80.

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

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

10 (E) Biometric information.

11 (F) Internet or other electronic network activity information,
12 including, but not limited to, browsing history, search history, and
13 information regarding a consumer's interaction with an Internet
14 Web site, application, or advertisement.

15 (G) Geolocation data.

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

18 (I) Professional or employment-related information.

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

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

28 (2) "Personal information" does not include publicly available
29 information. For these purposes, "publicly available" means
30 information that is lawfully made available from federal, state, or
31 local government records, if any conditions associated with such
32 information. "Publicly available" does not mean biometric
33 information collected by a business about a consumer without the
34 consumer's knowledge. Information is not "publicly available" if
35 that data is used for a purpose that is not compatible with the
36 purpose for which the data is maintained and made available in
37 the government records or for which it is publicly maintained.
38 "Publicly available" does not include consumer information that
39 is deidentified or aggregate consumer information.

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

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

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

16 (s) “Research” means scientific, systematic study and
17 observation, including basic research or applied research that is in
18 the public interest and that adheres to all other applicable ethics
19 and privacy laws or studies conducted in the public interest in the
20 area of public health. Research with personal information that may
21 have been collected from a consumer in the course of the
22 consumer’s interactions with a ~~business~~² *business’s* service or
23 device for other purposes shall be:

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

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

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

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

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

38 (6) Protected from any reidentification attempts.

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

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

2 (9) Subjected by the business conducting the research to
3 additional security controls limit access to the research data to only
4 those individuals in a business as are necessary to carry out the
5 research purpose.

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

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

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

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

28 (C) The business uses or shares with a service provider personal
29 information of a consumer that is necessary to perform a business
30 ~~purposes~~ *purpose* if both of the following conditions are met:
31 ~~services that the service provider performs on the business’ behalf;~~
32 ~~provided that the service provider also does not sell the personal~~
33 ~~information.~~

34 (i) The business has provided notice that information being used
35 or shared in its terms and conditions consistent with Section
36 1798.135.

37 (ii) The service provider does not further collect, sell, or use the
38 personal information of the consumer except as necessary to
39 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~~ *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.

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

4 (A) Prohibits the person receiving the personal information
5 from:

6 (i) Selling the personal information.

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

12 (iii) Retaining, using, or disclosing the information outside of
13 the direct business relationship between the person and the
14 business.

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

18 A person covered by paragraph (2) that violates any of the
19 restrictions set forth in this title shall be liable for the violations.
20 A business that discloses personal information to a person covered
21 by paragraph (2) in compliance with paragraph (2) shall not be
22 liable under this title if the person receiving the personal
23 information uses it in violation of the restrictions set forth in this
24 title, provided that, at the time of disclosing the personal
25 information, the business does not have actual knowledge, or
26 reason to believe, that the person intends to commit such a
27 violation.

28 (x) "Unique identifier" or "Unique personal identifier" means
29 a persistent identifier that can be used to recognize a consumer, a
30 family, or a device that is linked to a consumer or family, over
31 time and across different services, including, but not limited to, a
32 device identifier; an Internet Protocol address; cookies, beacons,
33 pixel tags, mobile ad identifiers, or similar technology; customer
34 number, unique pseudonym, or user alias; telephone numbers, or
35 other forms of persistent or probabilistic identifiers that can be
36 used to identify a particular consumer or device. For purposes of
37 this subdivision, "family" means a custodial parent or guardian
38 and any minor children over which the parent or guardian has
39 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 1798.110 and 1798.115 if the business cannot verify, pursuant 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.

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

1798.145. (a) The obligations imposed on businesses by this title shall not restrict a business’s 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

1 a business from storing, including on a device, personal information
2 about a consumer when the consumer is in California and then
3 collecting that personal information when the consumer and stored
4 personal information is outside of California.

5 (b) The obligations imposed on businesses by Sections 1798.110
6 to 1798.135, inclusive, shall not apply where compliance by the
7 business with the title would violate an evidentiary privilege under
8 California law and shall not prevent a business from providing the
9 personal information of a consumer to a person covered by an
10 evidentiary privilege under California law as part of a privileged
11 communication.

12 (c) This ~~act~~ *title* shall not apply to protected or health
13 information that is collected by a covered entity governed by the
14 Confidentiality of Medical Information Act (Part 2.6 (commencing
15 with Section 56 of Division 1)) or governed by the privacy,
16 security, and breach notification rules issued by the federal
17 Department of Health and Human Services, Parts 160 and 164 of
18 Title 45 of the Code of Federal Regulations, established pursuant
19 to the Health Insurance Portability and Availability Act of 1996.
20 For purposes of this subdivision, the definition of “medical
21 information” in Section 56.05 shall apply and the definitions of
22 “protected health information” and “covered entity” from the
23 federal privacy rule shall apply.

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

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

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

38 (g) Notwithstanding a ~~business’~~ *business’s* obligations to
39 respond to and honor consumer rights requests pursuant to this
40 title:

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

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

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

21 (h) A business that discloses personal information to a service
22 provider shall not be liable under this title if the service provider
23 receiving the personal information uses it in violation of the
24 restrictions set forth in the title, provided that, at the time of
25 disclosing the personal information, the business does not have
26 actual knowledge, or reason to believe, that the service provider
27 intends to commit such a violation. A service provider shall
28 likewise not be liable under this title for the obligations of a
29 business for which it provides services as set forth in this title.

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

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

36 (k) *The rights afforded to consumers and the obligations*
37 *imposed on any business under this title shall not be construed to*
38 *infringe on the business's speech rights that state or federal courts*
39 *have recognized as noncommercial speech, including political*
40 *speech and journalism.*

1 *SEC. 11. Section 1798.150 of the Civil Code, as added by*
2 *Section 3 of Chapter 55 of the Statutes of 2018, is amended to*
3 *read:*

4 1798.150. (a) (1) Any consumer whose nonencrypted or
5 nonredacted personal information, as defined in subparagraph (A)
6 of paragraph (1) of subdivision (d) of Section 1798.81.5, is subject
7 to an unauthorized access and exfiltration, theft, or disclosure as
8 a result of the ~~business~~² *business's* violation of the duty to
9 implement and maintain reasonable security procedures and
10 practices appropriate to the nature of the information to protect
11 the personal information may institute a civil action for any of the
12 following:

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

16 (B) Injunctive or declaratory relief.

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

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

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

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

1 this section, the consumer may initiate an action against the
2 business to enforce the written statement and may pursue statutory
3 damages for each breach of the express written statement, as well
4 as any other violation of the title that postdates the written
5 statement.

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

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

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

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

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

19 (c) *The civil action established by this section shall apply only*
20 *to violations of subdivision (a).* Nothing in this ~~act~~ title shall be
21 interpreted to serve as the basis for a private right of action under
22 any other law. This shall not be construed to relieve any party from
23 any duties or obligations imposed under other law or the United
24 States or California Constitution.

25 *SEC. 12. Section 1798.185 of the Civil Code, as added by*
26 *Section 3 of Chapter 55 of the Statutes of 2018, is amended to*
27 *read:*

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

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

37 (2) Updating as needed the definition of unique identifiers to
38 address changes in technology, data collection, obstacles to
39 implementation, and privacy concerns, and additional categories
40 to the definition of designated methods for submitting requests to

1 facilitate a consumer's ability to obtain information from a business
2 pursuant to Section 1798.130.

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

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

9 (A) To facilitate and govern the submission of a request by a
10 consumer to ~~opt-out~~ *opt-out* of the sale of personal information
11 pursuant to paragraph (1) of subdivision (a) of Section 1798.145.

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

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

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

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

31 (7) Establishing rules and procedures to further the purposes of
32 Sections 1798.110 and 1798.115 and to facilitate a consumer's or
33 the consumer's authorized agent's ability to obtain information
34 pursuant to Section 1798.130, with the goal of minimizing the
35 administrative burden on consumers, taking into account available
36 technology, security concerns, and the burden on the business, to
37 govern a ~~business's~~ *business's* determination that a request for
38 information received by a consumer is a verifiable *consumer*
39 request, including treating a request submitted through a
40 password-protected account maintained by the consumer with the

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

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

9 *SEC. 13. Section 1798.192 of the Civil Code, as added by*
10 *Section 3 of Chapter 55 of the Statutes of 2018, is amended to*
11 *read:*

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

21 *SEC. 14. Section 1798.196 of the Civil Code, as added by*
22 *Section 3 of Chapter 55 of the Statutes of 2018, is amended to*
23 *read:*

24 1798.196. This title is intended to supplement federal and state
25 law, if permissible, but shall not apply if such application is
26 preempted by, or in conflict with, federal law or the *United States*
27 *or California Constitution.*

28 *SEC. 15. Section 1798.198 of the Civil Code, as added by*
29 *Section 3 of Chapter 55 of the Statutes of 2018, is amended to*
30 *read:*

31 1798.198. (a) Subject to limitation provided in subdivision
32 (b), this title shall be operative January 1, 2020.

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

37 ~~SECTION 1. The heading of Title 1.81 (commencing with~~
38 ~~Section 1798.80) of Part 4 of Division 3 of the Civil Code is~~
39 ~~amended to read:~~

1 TITLE 1.81. CONSUMER RECORDS

2
3 SEC. 2. Section 1798.80 of the Civil Code is amended to read:

4 1798.80. The following definitions apply to this title:

5 (a) “Business” means a sole proprietorship, partnership,
6 corporation, association, or other group, however organized and
7 whether or not organized to operate at a profit, including a financial
8 institution organized, chartered, or holding a license or
9 authorization certificate under the law of this state, any other state,
10 the United States, or of any other country, or the parent or the
11 subsidiary of a financial institution. The term includes an entity
12 that disposes of records.

13 (b) “Records” means any material, regardless of the physical
14 form, on which information is recorded or preserved by any means,
15 including in written or spoken words, graphically depicted, printed,
16 or electromagnetically transmitted. “Records” does not include
17 publicly available directories containing information an individual
18 has voluntarily consented to have publicly disseminated or listed,
19 such as name, address, or telephone number.

20 (c) “Consumer” means an individual.

21 (d) “Individual” means a natural person.

22 (e) “Personal information” means any information that identifies,
23 relates to, describes, or is capable of being associated with, a
24 particular individual, including, but not limited to, his or her name,
25 signature, social security number, physical characteristics or
26 description, address, telephone number, passport number, driver’s
27 license or state identification card number, insurance policy
28 number, education, employment, employment history, bank account
29 number, credit card number, debit card number, or any other
30 financial information, medical information, or health insurance
31 information. “Personal information” does not include publicly
32 available information that is lawfully made available to the general
33 public from federal, state, or local government records.

34 SEC. 3. Section 1798.81 of the Civil Code is amended to read:

35 1798.81. A business shall take all reasonable steps to dispose,
36 or arrange for the disposal, of consumer records within its custody
37 or control containing personal information when the records are
38 no longer to be retained by the business by (a) shredding, (b)
39 erasing, or (c) otherwise modifying the personal information in

1 those records to make it unreadable or undecipherable through any
2 means.

3 SEC. 4. Section 1798.81.5 of the Civil Code is amended to
4 read:

5 1798.81.5. (a) (1) It is the intent of the Legislature to ensure
6 that personal information about California residents is protected.
7 To that end, the purpose of this section is to encourage businesses
8 that own, license, or maintain personal information about
9 Californians to provide reasonable security for that information.

10 (2) For the purpose of this section, the terms “own” and
11 “license” include personal information that a business retains as
12 part of the business’ internal consumer account or for the purpose
13 of using that information in transactions with the person to whom
14 the information relates. The term “maintain” includes maintain,
15 acquire, use, or disclose.

16 (b) A business that owns, licenses, or maintains personal
17 information about a California resident shall implement and
18 maintain reasonable security procedures and practices appropriate
19 to the nature of the information, to protect the personal information
20 from unauthorized access, destruction, use, modification, or
21 disclosure.

22 (c) A business that discloses personal information about a
23 California resident pursuant to a contract with a nonaffiliated third
24 party that is not subject to subdivision (b) shall require by contract
25 that the third party implement and maintain reasonable security
26 procedures and practices appropriate to the nature of the
27 information, to protect the personal information from unauthorized
28 access, destruction, use, modification, or disclosure.

29 (d) For purposes of this section, the following terms have the
30 following meanings:

31 (1) “Personal information” means either of the following:

32 (A) An individual’s first name or first initial and his or her last
33 name in combination with any one or more of the following data
34 elements, when either the name or the data elements are not
35 encrypted or redacted:

36 (i) Social security number.

37 (ii) Driver’s license number or California identification card
38 number.

39 (iii) Account number, credit or debit card number, in
40 combination with any required security code, access code, or

1 password that would permit access to an individual's financial
2 account.

3 (iv) Medical information.

4 (v) Health insurance information.

5 (B) A username or email address in combination with a
6 password or security question and answer that would permit access
7 to an online account.

8 (2) "Medical information" means any individually identifiable
9 information, in electronic or physical form, regarding the
10 individual's medical history or medical treatment or diagnosis by
11 a health care professional.

12 (3) "Health insurance information" means an individual's
13 insurance policy number or subscriber identification number, any
14 unique identifier used by a health insurer to identify the individual,
15 or any information in an individual's application and claims history,
16 including any appeals records.

17 (4) "Personal information" does not include publicly available
18 information that is lawfully made available to the general public
19 from federal, state, or local government records.

20 (e) The provisions of this section do not apply to any of the
21 following:

22 (1) A provider of health care, health care service plan, or
23 contractor regulated by the Confidentiality of Medical Information
24 Act (Part 2.6 (commencing with Section 56) of Division 1).

25 (2) A financial institution as defined in Section 4052 of the
26 Financial Code and subject to the California Financial Information
27 Privacy Act (Division 1.2 (commencing with Section 4050) of the
28 Financial Code).

29 (3) A covered entity governed by the medical privacy and
30 security rules issued by the federal Department of Health and
31 Human Services, Parts 160 and 164 of Title 45 of the Code of
32 Federal Regulations, established pursuant to the federal Health
33 Insurance Portability and Availability Act of 1996 (HIPAA).

34 (4) An entity that obtains information under an agreement
35 pursuant to Article 3 (commencing with Section 1800) of Chapter
36 1 of Division 2 of the Vehicle Code and is subject to the
37 confidentiality requirements of the Vehicle Code.

38 (5) A business that is regulated by state or federal law providing
39 greater protection to personal information than that provided by
40 this section in regard to the subjects addressed by this section.

1 Compliance with that state or federal law shall be deemed
2 compliance with this section with regard to those subjects. This
3 paragraph does not relieve a business from a duty to comply with
4 any other requirements of other state and federal law regarding
5 the protection and privacy of personal information.

6 SEC. 5. Section 1798.83 of the Civil Code is amended to read:

7 1798.83. (a) Except as otherwise provided in subdivision (d),
8 if a business has an established business relationship with a
9 consumer and has within the immediately preceding calendar year
10 disclosed personal information that corresponds to any of the
11 categories of personal information set forth in paragraph (6) of
12 subdivision (e) to third parties, and if the business knows or
13 reasonably should know that the third parties used the personal
14 information for the third parties' direct marketing purposes, that
15 business shall, after the receipt of a written or electronic mail
16 request, or, if the business chooses to receive requests by toll-free
17 telephone or facsimile numbers, a telephone or facsimile request
18 from the consumer, provide all of the following information to the
19 consumer free of charge:

20 (1) In writing or by electronic mail, a list of the categories set
21 forth in paragraph (6) of subdivision (e) that correspond to the
22 personal information disclosed by the business to third parties for
23 the third parties' direct marketing purposes during the immediately
24 preceding calendar year.

25 (2) In writing or by electronic mail, the names and addresses of
26 all of the third parties that received personal information from the
27 business for the third parties' direct marketing purposes during
28 the preceding calendar year and, if the nature of the third parties'
29 business cannot reasonably be determined from the third parties'
30 name, examples of the products or services marketed, if known to
31 the business, sufficient to give the consumer a reasonable indication
32 of the nature of the third parties' business.

33 (b) (1) A business required to comply with this section shall
34 designate a mailing address, electronic mail address, or, if the
35 business chooses to receive requests by telephone or facsimile, a
36 toll-free telephone or facsimile number, to which consumers may
37 deliver requests pursuant to subdivision (a). A business required
38 to comply with this section shall, at its election, do at least one of
39 the following:

1 (A) ~~Notify all agents and managers who directly supervise~~
2 ~~employees who regularly have contact with consumers of the~~
3 ~~designated addresses or numbers or the means to obtain those~~
4 ~~addresses or numbers and instruct those employees that consumers~~
5 ~~who inquire about the business' privacy practices or the business'~~
6 ~~compliance with this section shall be informed of the designated~~
7 ~~addresses or numbers or the means to obtain the addresses or~~
8 ~~numbers.~~

9 (B) ~~Add to the home page of its Internet Web site a link either~~
10 ~~to a page titled "Your Privacy Rights" or add the words "Your~~
11 ~~Privacy Rights" to the home page's link to the business' privacy~~
12 ~~policy. If the business elects to add the words "Your Privacy~~
13 ~~Rights" to the link to the business' privacy policy, the words "Your~~
14 ~~Privacy Rights" shall be in the same style and size as the link to~~
15 ~~the business' privacy policy. If the business does not display a link~~
16 ~~to its privacy policy on the home page of its Internet Web site, or~~
17 ~~does not have a privacy policy, the words "Your Privacy Rights"~~
18 ~~shall be written in larger type than the surrounding text, or in~~
19 ~~contrasting type, font, or color to the surrounding text of the same~~
20 ~~size, or set off from the surrounding text of the same size by~~
21 ~~symbols or other marks that call attention to the language. The~~
22 ~~first page of the link shall describe a consumer's rights pursuant~~
23 ~~to this section and shall provide the designated mailing address,~~
24 ~~email address, as required, or toll-free telephone or facsimile~~
25 ~~number, as appropriate. If the business elects to add the words~~
26 ~~"Your California Privacy Rights" to the home page's link to the~~
27 ~~business' privacy policy in a manner that complies with this~~
28 ~~subdivision, and the first page of the link describes a consumer's~~
29 ~~rights pursuant to this section, and provides the designated mailing~~
30 ~~address, electronic mailing address, as required, or toll-free~~
31 ~~telephone or facsimile number, as appropriate, the business need~~
32 ~~not respond to requests that are not received at one of the~~
33 ~~designated addresses or numbers.~~

34 (C) ~~Make the designated addresses or numbers, or means to~~
35 ~~obtain the designated addresses or numbers, readily available upon~~
36 ~~request of a consumer at every place of business in California~~
37 ~~where the business or its agents regularly have contact with~~
38 ~~consumers.~~

39 ~~The response to a request pursuant to this section received at~~
40 ~~one of the designated addresses or numbers shall be provided~~

1 within 30 days. Requests received by the business at other than
2 one of the designated addresses or numbers shall be provided
3 within a reasonable period, in light of the circumstances related
4 to how the request was received, but not to exceed 150 days from
5 the date received.

6 (2) A business that is required to comply with this section and
7 Section 6803 of Title 15 of the United States Code may comply
8 with this section by providing the consumer the disclosure required
9 by Section 6803 of Title 15 of the United States Code, but only if
10 the disclosure also complies with this section.

11 (3) A business that is required to comply with this section is not
12 obligated to provide information associated with specific
13 individuals and may provide the information required by this
14 section in standardized format.

15 (c) (1) A business that is required to comply with this section
16 is not obligated to do so in response to a request from a consumer
17 more than once during the course of any calendar year. A business
18 with fewer than 20 full-time or part-time employees is exempt
19 from the requirements of this section.

20 (2) If a business that is required to comply with this section
21 adopts and discloses to the public, in its privacy policy, a policy
22 of not disclosing personal information of consumers to third parties
23 for the third parties' direct marketing purposes unless the consumer
24 first affirmatively agrees to that disclosure, or of not disclosing
25 the personal information of consumers to third parties for the third
26 parties' direct marketing purposes if the consumer has exercised
27 an option that prevents that information from being disclosed to
28 third parties for those purposes, as long as the business maintains
29 and discloses the policies, the business may comply with
30 subdivision (a) by notifying the consumer of his or her right to
31 prevent disclosure of personal information, and providing the
32 consumer with a cost-free means to exercise that right.

33 (d) The following are among the disclosures not deemed to be
34 disclosures of personal information by a business for a third party's
35 direct marketing purposes for purposes of this section:

36 (1) Disclosures between a business and a third party pursuant
37 to contracts or arrangements pertaining to any of the following:

38 (A) The processing, storage, management, or organization of
39 personal information, or the performance of services on behalf of
40 the business during which personal information is disclosed, if the

1 ~~third party that processes, stores, manages, or organizes the~~
2 ~~personal information does not use the information for a third party's~~
3 ~~direct marketing purposes and does not disclose the information~~
4 ~~to additional third parties for their direct marketing purposes.~~

5 ~~(B) Marketing products or services to consumers with whom~~
6 ~~the business has an established business relationship where, as a~~
7 ~~part of the marketing, the business does not disclose personal~~
8 ~~information to third parties for the third parties' direct marketing~~
9 ~~purposes.~~

10 ~~(C) Maintaining or servicing accounts, including credit accounts~~
11 ~~and disclosures pertaining to the denial of applications for credit~~
12 ~~or the status of applications for credit and processing bills or~~
13 ~~insurance claims for payment.~~

14 ~~(D) Public record information relating to the right, title, or~~
15 ~~interest in real property or information relating to property~~
16 ~~characteristics, as defined in Section 408.3 of the Revenue and~~
17 ~~Taxation Code, obtained from a governmental agency or entity or~~
18 ~~from a multiple listing service, as defined in Section 1087, and not~~
19 ~~provided directly by the consumer to a business in the course of~~
20 ~~an established business relationship.~~

21 ~~(E) Jointly offering a product or service pursuant to a written~~
22 ~~agreement with the third party that receives the personal~~
23 ~~information, provided that all of the following requirements are~~
24 ~~met:~~

25 ~~(i) The product or service offered is a product or service of, and~~
26 ~~is provided by, at least one of the businesses that is a party to the~~
27 ~~written agreement.~~

28 ~~(ii) The product or service is jointly offered, endorsed, or~~
29 ~~sponsored by, and clearly and conspicuously identifies for the~~
30 ~~consumer, the businesses that disclose and receive the disclosed~~
31 ~~personal information.~~

32 ~~(iii) The written agreement provides that the third party that~~
33 ~~receives the personal information is required to maintain the~~
34 ~~confidentiality of the information and is prohibited from disclosing~~
35 ~~or using the information other than to carry out the joint offering~~
36 ~~or servicing of a product or service that is the subject of the written~~
37 ~~agreement.~~

38 ~~(2) Disclosures to or from a consumer reporting agency of a~~
39 ~~consumer's payment history or other information pertaining to~~
40 ~~transactions or experiences between the business and a consumer~~

1 if that information is to be reported in, or used to generate, a
2 consumer report as defined in subdivision (d) of Section 1681a of
3 Title 15 of the United States Code, and use of that information is
4 limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec.
5 1681 et seq.).

6 (3) ~~Disclosures of personal information by a business to a third
7 party financial institution solely for the purpose of the business
8 obtaining payment for a transaction in which the consumer paid
9 the business for goods or services with a check, credit card, charge
10 card, or debit card, if the consumer seeks the information required
11 by subdivision (a) from the business obtaining payment, whether
12 or not the business obtaining payment knows or reasonably should
13 know that the third party financial institution has used the personal
14 information for its direct marketing purposes.~~

15 (4) ~~Disclosures of personal information between a licensed agent
16 and its principal, if the personal information disclosed is necessary
17 to complete, effectuate, administer, or enforce transactions between
18 the principal and the agent, whether or not the licensed agent or
19 principal also uses the personal information for direct marketing
20 purposes, if that personal information is used by each of them
21 solely to market products and services directly to consumers with
22 whom both have established business relationships as a result of
23 the principal and agent relationship.~~

24 (5) ~~Disclosures of personal information between a financial
25 institution and a business that has a private label credit card, affinity
26 card, retail installment contract, or cobranded card program with
27 the financial institution, if the personal information disclosed is
28 necessary for the financial institution to maintain or service
29 accounts on behalf of the business with which it has a private label
30 credit card, affinity card, retail installment contract, or cobranded
31 card program, or to complete, effectuate, administer, or enforce
32 consumer transactions or transactions between the institution and
33 the business, whether or not the institution or the business also
34 uses the personal information for direct marketing purposes, if that
35 personal information is used solely to market products and services
36 directly to consumers with whom both the business and the
37 financial institution have established business relationships as a
38 result of the private label credit card, affinity card, retail installment
39 contract, or cobranded card program.~~

1 (e) For purposes of this section, the following terms have the
2 following meanings:

3 (1) “Consumer” means an individual.

4 (2) “Direct marketing purposes” means the use of personal
5 information to solicit or induce a purchase, rental, lease, or
6 exchange of products, goods, property, or services directly to
7 individuals by means of the mail, telephone, or electronic mail for
8 their personal, family, or household purposes. The sale, rental,
9 exchange, or lease of personal information for consideration to
10 businesses is a direct marketing purpose of the business that sells,
11 rents, exchanges, or obtains consideration for the personal
12 information. “Direct marketing purposes” does not include the use
13 of personal information (A) by bona fide tax exempt charitable or
14 religious organizations to solicit charitable contributions, (B) to
15 raise funds from and communicate with individuals regarding
16 politics and government, (C) by a third party when the third party
17 receives personal information solely as a consequence of having
18 obtained for consideration permanent ownership of accounts that
19 might contain personal information, or (D) by a third party when
20 the third party receives personal information solely as a
21 consequence of a single transaction where, as a part of the
22 transaction, personal information had to be disclosed in order to
23 effectuate the transaction.

24 (3) “Diselose” means to diselose, release, transfer, disseminate,
25 or otherwise communicate orally, in writing, or by electronic mail
26 or any other means to any third party.

27 (4) “Employees who regularly have contact with consumers”
28 means employees whose contact with consumers is not incidental
29 to their primary employment duties, and whose duties do not
30 predominantly involve ensuring the safety or health of the
31 business’s consumers. It includes, but is not limited to, employees
32 whose primary employment duties are as cashier, clerk, consumer
33 service, sales, or promotion. It does not, by way of example,
34 include employees whose primary employment duties consist of
35 food or beverage preparation or service, maintenance and repair
36 of the business’ facilities or equipment, direct involvement in the
37 operation of a motor vehicle, aircraft, watercraft, amusement ride,
38 heavy machinery or similar equipment, security, or participation
39 in a theatrical, literary, musical, artistic, or athletic performance
40 or contest.

1 ~~(5) “Established business relationship” means a relationship~~
2 ~~formed by a voluntary, two-way communication between a~~
3 ~~business and a consumer, with or without an exchange of~~
4 ~~consideration, for the purpose of purchasing, renting, or leasing~~
5 ~~real or personal property, or any interest therein, or obtaining a~~
6 ~~product or service from the business, if the relationship is ongoing~~
7 ~~and has not been expressly terminated by the business or the~~
8 ~~consumer, or if the relationship is not ongoing, but is solely~~
9 ~~established by the purchase, rental, or lease of real or personal~~
10 ~~property from a business, or the purchase of a product or service,~~
11 ~~and no more than 18 months have elapsed from the date of the~~
12 ~~purchase, rental, or lease.~~

13 ~~(6) (A) The categories of personal information required to be~~
14 ~~disclosed pursuant to paragraph (1) of subdivision (a) are all of~~
15 ~~the following:~~

- 16 ~~(i) Name and address.~~
- 17 ~~(ii) Electronic mail address.~~
- 18 ~~(iii) Age or date of birth.~~
- 19 ~~(iv) Names of children.~~
- 20 ~~(v) Electronic mail or other addresses of children.~~
- 21 ~~(vi) Number of children.~~
- 22 ~~(vii) The age or gender of children.~~
- 23 ~~(viii) Height.~~
- 24 ~~(ix) Weight.~~
- 25 ~~(x) Race.~~
- 26 ~~(xi) Religion.~~
- 27 ~~(xii) Occupation.~~
- 28 ~~(xiii) Telephone number.~~
- 29 ~~(xiv) Education.~~
- 30 ~~(xv) Political party affiliation.~~
- 31 ~~(xvi) Medical condition.~~
- 32 ~~(xvii) Drugs, therapies, or medical products or equipment used.~~
- 33 ~~(xviii) The kind of product the consumer purchased, leased, or~~
34 ~~rented.~~
- 35 ~~(xix) Real property purchased, leased, or rented.~~
- 36 ~~(xx) The kind of service provided.~~
- 37 ~~(xxi) Social security number.~~
- 38 ~~(xxii) Bank account number.~~
- 39 ~~(xxiii) Credit card number.~~
- 40 ~~(xxiv) Debit card number.~~

1 ~~(xxv) Bank or investment account, debit card, or credit card~~
2 ~~balance.~~

3 ~~(xxvi) Payment history.~~

4 ~~(xxvii) Information pertaining to the consumer's~~
5 ~~creditworthiness, assets, income, or liabilities.~~

6 ~~(B) If a list, description, or grouping of consumer names or~~
7 ~~addresses is derived using any of these categories, and is disclosed~~
8 ~~to a third party for direct marketing purposes in a manner that~~
9 ~~permits the third party to identify, determine, or extrapolate any~~
10 ~~other personal information from which the list was derived, and~~
11 ~~that personal information when it was disclosed identified,~~
12 ~~described, or was associated with an individual, the categories set~~
13 ~~forth in this subdivision that correspond to the personal information~~
14 ~~used to derive the list, description, or grouping shall be considered~~
15 ~~personal information for purposes of this section.~~

16 ~~(7) "Personal information" as used in this section means any~~
17 ~~information that when it was disclosed identified, described, or~~
18 ~~was able to be associated with an individual and includes all of~~
19 ~~the following:~~

20 ~~(A) An individual's name and address.~~

21 ~~(B) Electronic mail address.~~

22 ~~(C) Age or date of birth.~~

23 ~~(D) Names of children.~~

24 ~~(E) Electronic mail or other addresses of children.~~

25 ~~(F) Number of children.~~

26 ~~(G) The age or gender of children.~~

27 ~~(H) Height.~~

28 ~~(I) Weight.~~

29 ~~(J) Race.~~

30 ~~(K) Religion.~~

31 ~~(L) Occupation.~~

32 ~~(M) Telephone number.~~

33 ~~(N) Education.~~

34 ~~(O) Political party affiliation.~~

35 ~~(P) Medical condition.~~

36 ~~(Q) Drugs, therapies, or medical products or equipment used.~~

37 ~~(R) The kind of product the consumer purchased, leased, or~~
38 ~~rented.~~

39 ~~(S) Real property purchased, leased, or rented.~~

40 ~~(T) The kind of service provided.~~

1 (U) Social security number.

2 (V) Bank account number.

3 (W) Credit card number.

4 (X) Debit card number.

5 (Y) Bank or investment account, debit card, or credit card
6 balance.

7 (Z) Payment history.

8 (AA) Information pertaining to creditworthiness, assets, income,
9 or liabilities.

10 (8) “Third party” or “third parties” means one or more of the
11 following:

12 (A) A business that is a separate legal entity from the business
13 that has an established business relationship with a consumer.

14 (B) A business that has access to a database that is shared among
15 businesses, if the business is authorized to use the database for
16 direct marketing purposes, unless the use of the database is exempt
17 from being considered a disclosure for direct marketing purposes
18 pursuant to subdivision (d).

19 (C) A business not affiliated by a common ownership or
20 common corporate control with the business required to comply
21 with subdivision (a).

22 (f) (1) Disclosures of personal information for direct marketing
23 purposes between affiliated third parties that share the same brand
24 name are exempt from the requirements of paragraph (1) of
25 subdivision (a) unless the personal information disclosed
26 corresponds to one of the following categories, in which case the
27 consumer shall be informed of those categories listed in this
28 subdivision that correspond to the categories of personal
29 information disclosed for direct marketing purposes and the third
30 party recipients of personal information disclosed for direct
31 marketing purposes pursuant to paragraph (2) of subdivision (a):

32 (A) Number of children.

33 (B) The age or gender of children.

34 (C) Electronic mail or other addresses of children.

35 (D) Height.

36 (E) Weight.

37 (F) Race.

38 (G) Religion.

39 (H) Telephone number.

40 (I) Medical condition.

1 ~~(J) Drugs, therapies, or medical products or equipment used.~~

2 ~~(K) Social security number.~~

3 ~~(L) Bank account number.~~

4 ~~(M) Credit card number.~~

5 ~~(N) Debit card number.~~

6 ~~(O) Bank or investment account, debit card, or credit card~~
7 ~~balance.~~

8 ~~(2) If a list, description, or grouping of consumer names or~~
9 ~~addresses is derived using any of these categories, and is disclosed~~
10 ~~to a third party or third parties sharing the same brand name for~~
11 ~~direct marketing purposes in a manner that permits the third party~~
12 ~~to identify, determine, or extrapolate the personal information from~~
13 ~~which the list was derived, and that personal information when it~~
14 ~~was disclosed identified, described, or was associated with an~~
15 ~~individual, any other personal information that corresponds to the~~
16 ~~categories set forth in this subdivision used to derive the list,~~
17 ~~description, or grouping shall be considered personal information~~
18 ~~for purposes of this section.~~

19 ~~(3) If a business discloses personal information for direct~~
20 ~~marketing purposes to affiliated third parties that share the same~~
21 ~~brand name, the business that discloses personal information for~~
22 ~~direct marketing purposes between affiliated third parties that share~~
23 ~~the same brand name may comply with the requirements of~~
24 ~~paragraph (2) of subdivision (a) by providing the overall number~~
25 ~~of affiliated companies that share the same brand name.~~

26 ~~(g) The provisions of this section are severable. If any provision~~
27 ~~of this section or its application is held invalid, that invalidity shall~~
28 ~~not affect other provisions or applications that can be given effect~~
29 ~~without the invalid provision or application.~~

30 ~~(h) This section does not apply to a financial institution that is~~
31 ~~subject to the California Financial Information Privacy Act~~
32 ~~(Division 1.2 (commencing with Section 4050) of the Financial~~
33 ~~Code) if the financial institution is in compliance with Sections~~
34 ~~4052, 4052.5, 4053, 4053.5, and 4054.6 of the Financial Code, as~~
35 ~~those sections read when they were chaptered on August 28, 2003,~~
36 ~~and as subsequently amended by the Legislature or by initiative.~~

37 ~~(i) This section shall become operative on January 1, 2005.~~

38 ~~SEC. 6. Section 1798.84 of the Civil Code is amended to read:~~

39 ~~1798.84. (a) Any waiver of a provision of this title is contrary~~
40 ~~to public policy and is void and unenforceable.~~

1 ~~(b) Any consumer injured by a violation of this title may institute~~
2 ~~a civil action to recover damages.~~

3 ~~(c) In addition, for a willful, intentional, or reckless violation~~
4 ~~of Section 1798.83, a consumer may recover a civil penalty not to~~
5 ~~exceed three thousand dollars (\$3,000) per violation; otherwise,~~
6 ~~the consumer may recover a civil penalty of up to five hundred~~
7 ~~dollars (\$500) per violation for a violation of Section 1798.83.~~

8 ~~(d) Unless the violation is willful, intentional, or reckless, a~~
9 ~~business that is alleged to have not provided all the information~~
10 ~~required by subdivision (a) of Section 1798.83, to have provided~~
11 ~~inaccurate information, failed to provide any of the information~~
12 ~~required by subdivision (a) of Section 1798.83, or failed to provide~~
13 ~~information in the time period required by subdivision (b) of~~
14 ~~Section 1798.83, may assert as a complete defense in any action~~
15 ~~in law or equity that it thereafter provided regarding the information~~
16 ~~that was alleged to be untimely, all the information, or accurate~~
17 ~~information, to all consumers who were provided incomplete or~~
18 ~~inaccurate information, respectively, within 90 days of the date~~
19 ~~the business knew that it had failed to provide the information;~~
20 ~~timely information, all the information, or the accurate information;~~
21 ~~respectively.~~

22 ~~(e) Any business that violates, proposes to violate, or has~~
23 ~~violated this title may be enjoined.~~

24 ~~(f) (1) A cause of action shall not lie against a business for~~
25 ~~disposing of abandoned records containing personal information~~
26 ~~by shredding, erasing, or otherwise modifying the personal~~
27 ~~information in the records to make it unreadable or undecipherable~~
28 ~~through any means.~~

29 ~~(2) The Legislature finds and declares that when records~~
30 ~~containing personal information are abandoned by a business, they~~
31 ~~often end up in the possession of a storage company or commercial~~
32 ~~landlord. It is the intent of the Legislature in paragraph (1) to create~~
33 ~~a safe harbor for such a record custodian who properly disposes~~
34 ~~of the records in accordance with paragraph (1).~~

35 ~~(g) A prevailing plaintiff in any action commenced under~~
36 ~~Section 1798.83 shall also be entitled to recover his or her~~
37 ~~reasonable attorney's fees and costs.~~

38 ~~(h) The rights and remedies available under this section are~~
39 ~~cumulative to each other and to any other rights and remedies~~
40 ~~available under law.~~

1 (i) ~~(1) Any consumer whose nonencrypted and nonredacted~~
2 ~~personal information, as specified in subparagraph (A) of paragraph~~
3 ~~(1) of subdivision (d) of Section 1798.81.5, has been breached by~~
4 ~~a violation of the duty to implement and maintain reasonable~~
5 ~~security procedures and practices appropriate to the nature of the~~
6 ~~information required by Section 1798.81.5, or any consumer who~~
7 ~~has not been properly notified of a breach of his or her personal~~
8 ~~information in violation of Section 1798.82, may institute a civil~~
9 ~~action for any of the following:~~

10 ~~(A) To recover damages in an amount not less than two hundred~~
11 ~~dollars (\$200) and not greater than one thousand dollars (\$1,000)~~
12 ~~per consumer per incident or actual damages, whichever is greater.~~

13 ~~(B) Injunctive or declaratory relief.~~

14 ~~(C) Any other relief the court deems proper.~~

15 ~~(2) An action to recover under paragraph (1) shall not be brought~~
16 ~~more than four years from the time the person discovered, or,~~
17 ~~through the exercise of reasonable diligence, should have~~
18 ~~discovered, the violation.~~

19 ~~(3) For purposes of this subdivision, “breach” means~~
20 ~~unauthorized access, use, modification, or disclosure of personal~~
21 ~~information.~~

22 ~~(j) Nothing in this title shall prevent a consumer from joining~~
23 ~~a class or representative action.~~

O

STATE CAPITOL, ROOM 5064
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California State Senate

BILL DODD

SENATOR, THIRD DISTRICT



CHAIR: SENATE GOVERNMENTAL ORGANIZATION COMMITTEE

COMMITTEES
AGRICULTURE
BUSINESS, PROFESSIONS AND
ECONOMIC DEVELOPMENT
VETERANS AFFAIRS
SELECT COMMITTEE
CALIFORNIA'S WINE INDUSTRY
CO-CHAIR

August 23, 2018

Chairman Cooley
Assembly Rules Committee
State Capitol, Room 3016
Sacramento, California 95814

Dear Mr. Chair:

I am requesting to add an urgency clause to SB 1121. We are requesting an urgency clause in order to prevent the confusion created by the enactment of conflicting local laws regarding the collection and sale of personal information. Without such an amendment, locals could enact measures that conflict with the provisions of the California Consumer Privacy Act of 2018 before it goes into effect in 2020.

Sincerely,

A handwritten signature in blue ink that reads "Bill Dodd".

BILL DODD
Senator 3rd District

PROPOSED AMENDMENTS

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PROPOSED AMENDMENTS TO SENATE BILL NO. 1121

AMENDED IN ASSEMBLY AUGUST 6, 2018

AMENDED IN ASSEMBLY JUNE 14, 2018

AMENDED IN SENATE MAY 25, 2018

AMENDED IN SENATE APRIL 26, 2018

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1121



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

February 13, 2018

An act to amend Sections 1798.100, 1798.105, 1798.110, 1798.115, 1798.120, 1798.125, 1798.130, 1798.135, 1798.140, 1798.145, 1798.150, 1798.155, 1798.185, 1798.192, 1798.196, and 1798.198 of *of, and to add Section 1798.199 to, the Civil Code, relating to personal information*, ~~information~~, and declaring the urgency thereof, to take effect immediately.

Amendment 1
Amendments 2 & 3

LEGISLATIVE COUNSEL'S DIGEST

SB 1121, as amended, Dodd. California Consumer Privacy Act of 2018.

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

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PROPOSED AMENDMENTS

SB 1121

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

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

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

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

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

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

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

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

This bill would make the provisions of the act that supersede and preempt laws adopted by local entities, as described above, operative on the date the bill becomes effective.

(4)

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

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

PROPOSED AMENDMENTS

SB 1121

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

Page 3 1 SECTION 1. Section 1798.100 of the Civil Code, as added by
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
3 read:
4 1798.100. (a) A consumer shall have the right to request that
5 a business that collects a consumer's personal information disclose
Page 4 1 to that consumer the categories and specific pieces of personal
2 information the business has collected.
3 (b) A business that collects a consumer's personal information
4 shall, at or before the point of collection, inform consumers as to
5 the categories of personal information to be collected and the
6 purposes for which the categories of personal information shall be
7 used. A business shall not collect additional categories of personal
8 information or use personal information collected for additional
9 purposes without providing the consumer with notice consistent
10 with this section.
11 (c) A business shall provide the information specified in
12 subdivision (a) to a consumer only upon receipt of a verifiable
13 consumer request.
14 (d) A business that receives a verifiable consumer request from
15 a consumer to access personal information shall promptly take
16 steps to disclose and deliver, free of charge to the consumer, the
17 personal information required by this section. The information
18 may be delivered by mail or electronically, and if provided
19 electronically, the information shall be in a portable and, to the
20 extent technically feasible, in a readily useable format that allows
21 the consumer to transmit this information to another entity without
22 hindrance. A business may provide personal information to a
23 consumer at any time, but shall not be required to provide personal
24 information to a consumer more than twice in a 12-month period.
25 (e) This section shall not require a business to retain any
26 personal information collected for a single, one-time transaction,
27 if such information is not sold or retained by the business or to
28 reidentify or otherwise link information that is not maintained in
29 a manner that would be considered personal information.
36 SEC. 2. Section 1798.105 of the Civil Code, as added by
37 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:

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PROPOSED AMENDMENTS

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SB 1121

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SUBSTANTIVE**

Page 4 38 1798.105. (a) A consumer shall have the right to request that
39 a business delete any personal information about the consumer
40 which the business has collected from the consumer.

Page 5 1 (b) A business that collects personal information about
2 consumers shall disclose, pursuant to Section 1798.130, the
4 consumer's rights to request the deletion of the consumer's
5 personal information.

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

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

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

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

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

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

30 (5) Comply with the California Electronic Communications
31 Privacy Act pursuant to Chapter 3.6 (commencing with Section
32 1546) of Title 12 of Part 2 of the Penal Code.

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

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Page 6 1 (7) To enable solely internal uses that are reasonably aligned
2 with the expectations of the consumer based on the consumer's
3 relationship with the business.
4 (8) Comply with a legal obligation.
5 (9) Otherwise use the consumer's personal information,
6 internally, in a lawful manner that is compatible with the context
7 in which the consumer provided the information.
8 SEC. 3. Section 1798.110 of the Civil Code, as added by
9 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
10 1798.110. (a) A consumer shall have the right to request that
11 a business that collects personal information about the consumer
12 disclose to the consumer the following:
13 (1) The categories of personal information it has collected about
14 that consumer.
15 (2) The categories of sources from which the personal
16 information is collected.
17 (3) The business or commercial purpose for collecting or selling
18 personal information.
19 (4) The categories of third parties with whom the business shares
20 personal information.
21 (5) The specific pieces of personal information it has collected
22 about that consumer.
23 (b) A business that collects personal information about a
24 consumer shall disclose to the consumer, pursuant to paragraph
25 (3) of subdivision (a) of Section 1798.130, the information
26 specified in subdivision (a) upon receipt of a verifiable consumer
27 request from the consumer.
28 (c) A business that collects personal information about
29 consumers shall disclose, pursuant to subparagraph (B) of
30 paragraph (5) of subdivision (a) of Section 1798.130:
31 (1) The categories of personal information it has collected about
32 that consumer.
33 (2) The categories of sources from which the personal
34 information is collected.
35 (3) The business or commercial purpose for collecting or selling
36 personal information.
37 (4) The categories of third parties with whom the business shares
38 personal information.

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Page 6 39 (5) The specific pieces of personal information the business has
40 collected about that consumer.

Page 7 1 (d) This section does not require a business to do the following:
2 (1) Retain any personal information about a consumer collected
3 for a single one-time transaction if, in the ordinary course of
4 business, that information about the consumer is not retained.
5 (2) Reidentify or otherwise link any data that, in the ordinary
6 course of business, is not maintained in a manner that would be
7 considered personal information.

8 SEC. 4. Section 1798.115 of the Civil Code, as added by
9 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
10 1798.115. (a) A consumer shall have the right to request that
11 a business that sells the consumer's personal information, or that
12 discloses it for a business purpose, disclose to that consumer:
13 (1) The categories of personal information that the business
14 collected about the consumer.
15 (2) The categories of personal information that the business sold
16 about the consumer and the categories of third parties to whom
17 the personal information was sold, by category or categories of
18 personal information for each third party to whom the personal
19 information was sold.
20 (3) The categories of personal information that the business
21 disclosed about the consumer for a business purpose.

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

28 (c) A business that sells consumers' personal information, or
29 that discloses consumers' personal information for a business
30 purpose, shall disclose, pursuant to subparagraph (C) of paragraph
31 (5) of subdivision (a) of Section 1798.130:
32 (1) The category or categories of consumers' personal
33 information it has sold, or if the business has not sold consumers'
34 personal information, it shall disclose that fact.
35 (2) The category or categories of consumers' personal
36 information it has disclosed for a business purpose, or if the

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Page 7 37 business has not disclosed the consumers' personal information
38 for a business purpose, it shall disclose that fact.
39 (d) A third party shall not sell personal information about a
40 consumer that has been sold to the third party by a business unless
Page 8 1 the consumer has received explicit notice and is provided an
2 opportunity to exercise the right to opt-out pursuant to Section
3 1798.120.
4 SEC. 5. Section 1798.120 of the Civil Code, as added by
5 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
6 1798.120. (a) A consumer shall have the right, at any time, to
7 direct a business that sells personal information about the consumer
8 to third parties not to sell the consumer's personal information.
9 This right may be referred to as the right to opt-out.
10 (b) A business that sells consumers' personal information to
11 third parties shall provide notice to consumers, pursuant to
12 subdivision (a) of Section 1798.135, that this information may be
13 sold and that consumers have the "right to opt-out" of the sale of
14 their personal information.
25 (c) Notwithstanding subdivision (a), a business shall not sell
26 the personal information of consumers if the business has actual
27 knowledge that the consumer is less than 16 years of age, unless
28 the consumer, in the case of consumers between 13 and 16 years
29 of age, or the consumer's parent or guardian, in the case of
30 consumers who are less than 13 years of age, has affirmatively
31 authorized the sale of the consumer's personal information. A
32 business that willfully disregards the consumer's age shall be
33 deemed to have had actual knowledge of the consumer's age. This
34 right may be referred to as the "right to opt-in."
35 (d) A business that has received direction from a consumer not
36 to sell the consumer's personal information or, in the case of a
37 minor consumer's personal information has not received consent
38 to sell the minor consumer's personal information shall be
39 prohibited, pursuant to paragraph (4) of subdivision (a) of Section
40 1798.135, from selling the consumer's personal information after
Page 9 1 its receipt of the consumer's direction, unless the consumer
2 subsequently provides express authorization for the sale of the
3 consumer's personal information.

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Page 9 4 SEC. 6. Section 1798.125 of the Civil Code, as added by
5 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
6 1798.125. (a) (1) A business shall not discriminate against a
7 consumer because the consumer exercised any of the consumer's
8 rights under this title, including, but not limited to, by:
9 (A) Denying goods or services to the consumer.
10 (B) Charging different prices or rates for goods or services,
11 including through the use of discounts or other benefits or imposing
12 penalties.
13 (C) Providing a different level or quality of goods or services
14 to the consumer.
15 (D) Suggesting that the consumer will receive a different price
16 or rate for goods or services or a different level or quality of goods
17 or services.
18 (2) Nothing in this subdivision prohibits a business from
19 charging a consumer a different price or rate, or from providing a
20 different level or quality of goods or services to the consumer, if
21 that difference is reasonably related to the value provided to the
22 consumer by the consumer's data.
23 (b) (1) A business may offer financial incentives, including
24 payments to consumers as compensation, for the collection of
25 personal information, the sale of personal information, or the
26 deletion of personal information. A business may also offer a
27 different price, rate, level, or quality of goods or services to the
28 consumer if that price or difference is directly related to the value
29 provided to the consumer by the consumer's data.
30 (2) A business that offers any financial incentives pursuant to
31 subdivision (a), shall notify consumers of the financial incentives
32 pursuant to Section 1798.135.
33 (3) A business may enter a consumer into a financial incentive
34 program only if the consumer gives the business prior opt-in
35 consent pursuant to Section 1798.135 which clearly describes the
36 material terms of the financial incentive program, and which may
37 be revoked by the consumer at any time.
38 (4) A business shall not use financial incentive practices that
39 are unjust, unreasonable, coercive, or usurious in nature.
40 Page 10 1 SEC. 7. Section 1798.130 of the Civil Code, as added by
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:

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Page 10 3 1798.130. (a) In order to comply with Sections 1798.100,
4 1798.105, 1798.110, 1798.115, and 1798.125, a business shall, in
5 a form that is reasonably accessible to consumers:
6 (1) Make available to consumers two or more designated
7 methods for submitting requests for information required to be
8 disclosed pursuant to Sections 1798.110 and 1798.115, including,
9 at a minimum, a toll-free telephone number, and if the business
10 maintains an Internet Web site, a Web site address.
11 (2) Disclose and deliver the required information to a consumer
12 free of charge within 45 days of receiving a verifiable consumer
13 request from the consumer. The business shall promptly take steps
14 to determine whether the request is a verifiable consumer request,
15 but this shall not extend the business's duty to disclose and deliver
16 the information within 45 days of receipt of the consumer's request.
17 The time period to provide the required information may be
18 extended once by an additional 45 days when reasonably necessary,
19 provided the consumer is provided notice of the extension within
20 the first 45-day period. The disclosure shall cover the 12-month
21 period preceding the business's receipt of the verifiable consumer
22 request and shall be made in writing and delivered through the
23 consumer's account with the business, if the consumer maintains
24 an account with the business, or by mail or electronically at the
25 consumer's option if the consumer does not maintain an account
26 with the business, in a readily useable format that allows the
27 consumer to transmit this information from one entity to another
28 entity without hindrance. The business shall not require the
29 consumer to create an account with the business in order to make
30 a verifiable consumer request.
31 (3) For purposes of subdivision (b) of Section 1798.110:
32 (A) To identify the consumer, associate the information provided
33 by the consumer in the verifiable consumer request to any personal
34 information previously collected by the business about the
35 consumer.
36 (B) Identify by category or categories the personal information
37 collected about the consumer in the preceding 12 months by
38 reference to the enumerated category or categories in subdivision
39 (c) that most closely describes the personal information collected.
Page 11 1 (4) For purposes of subdivision (b) of Section 1798.115:
2 (A) Identify the consumer and associate the information
3 provided by the consumer in the verifiable consumer request to

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Page 11 4 any personal information previously collected by the business
5 about the consumer.
6 (B) Identify by category or categories the personal information
7 of the consumer that the business sold in the preceding 12 months
8 by reference to the enumerated category in subdivision (c) that
9 most closely describes the personal information, and provide the
10 categories of third parties to whom the consumer's personal
11 information was sold in the preceding 12 months by reference to
12 the enumerated category or categories in subdivision (c) that most
13 closely describes the personal information sold. The business shall
14 disclose the information in a list that is separate from a list
15 generated for the purposes of subparagraph (C).
16 (C) Identify by category or categories the personal information
17 of the consumer that the business disclosed for a business purpose
18 in the preceding 12 months by reference to the enumerated category
19 or categories in subdivision (c) that most closely describes the
20 personal information, and provide the categories of third parties
21 to whom the consumer's personal information was disclosed for
22 a business purpose in the preceding 12 months by reference to the
23 enumerated category or categories in subdivision (c) that most
24 closely describes the personal information disclosed. The business
25 shall disclose the information in a list that is separate from a list
26 generated for the purposes of subparagraph (B).
27 (5) Disclose the following information in its online privacy
28 policy or policies if the business has an online privacy policy or
29 policies and in any California-specific description of consumers'
30 privacy rights, or if the business does not maintain those policies,
31 on its Internet Web site, and update that information at least once
32 every 12 months:
33 (A) A description of a consumer's rights pursuant to Sections
34 1798.110, 1798.115, and 1798.125 and one or more designated
35 methods for submitting requests.
36 (B) For purposes of subdivision (c) of Section 1798.110, a list
37 of the categories of personal information it has collected about
38 consumers in the preceding 12 months by reference to the
39 enumerated category or categories in subdivision (c) that most
40 closely describe the personal information collected.
Page 12 1 (C) For purposes of paragraphs (1) and (2) of subdivision (c)
2 of Section 1798.115, two separate lists:

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Page 12 3 (i) A list of the categories of personal information it has sold
4 about consumers in the preceding 12 months by reference to the
5 enumerated category or categories in subdivision (c) that most
6 closely describe the personal information sold, or if the business
7 has not sold consumers' personal information in the preceding 12
8 months, the business shall disclose that fact.
9 (ii) A list of the categories of personal information it has
10 disclosed about consumers for a business purpose in the preceding
11 12 months by reference to the enumerated category in subdivision
12 (c) that most closely describe the personal information disclosed,
13 or if the business has not disclosed consumers' personal
14 information for a business purpose in the preceding 12 months,
15 the business shall disclose that fact.
16 (6) Ensure that all individuals responsible for handling consumer
17 inquiries about the business's privacy practices or the business's
18 compliance with this title are informed of all requirements in
19 Sections 1798.110, 1798.115, 1798.125, and this section, and how
20 to direct consumers to exercise their rights under those sections.
21 (7) Use any personal information collected from the consumer
22 in connection with the business's verification of the consumer's
23 request solely for the purposes of verification.
24 (b) A business is not obligated to provide the information
25 required by Sections 1798.110 and 1798.115 to the same consumer
26 more than twice in a 12-month period.
27 (c) The categories of personal information required to be
28 disclosed pursuant to Sections 1798.110 and 1798.115 shall follow
29 the definition of personal information in Section 1798.140.
30 SEC. 8. Section 1798.135 of the Civil Code, as added by
31 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
32 1798.135. (a) A business that is required to comply with
33 Section 1798.120 shall, in a form that is reasonably accessible to
34 consumers:
35 (1) Provide a clear and conspicuous link on the business's
36 Internet homepage, titled "Do Not Sell My Personal Information,"
37 to an Internet Web page that enables a consumer, or a person
38 authorized by the consumer, to opt-out of the sale of the consumer's
39 personal information. A business shall not require a consumer to
Page 13 1 create an account in order to direct the business not to sell the
2 consumer's personal information.

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Page 13 3 (2) Include a description of a consumer's rights pursuant to
4 Section 1798.120, along with a separate link to the "Do Not Sell
5 My Personal Information" Internet Web page in:
6 (A) Its online privacy policy or policies if the business has an
7 online privacy policy or policies.
8 (B) Any California-specific description of consumers' privacy
9 rights.
10 (3) Ensure that all individuals responsible for handling consumer
11 inquiries about the business's privacy practices or the business's
12 compliance with this title are informed of all requirements in
13 Section 1798.120 and this section and how to direct consumers to
14 exercise their rights under those sections.
15 (4) For consumers who exercise their right to opt-out of the sale
16 of their personal information, refrain from selling personal
17 information collected by the business about the consumer.
18 (5) For a consumer who has opted-out of the sale of the
19 consumer's personal information, respect the consumer's decision
20 to opt-out for at least 12 months before requesting that the
21 consumer authorize the sale of the consumer's personal
22 information.
23 (6) Use any personal information collected from the consumer
24 in connection with the submission of the consumer's opt-out
25 request solely for the purposes of complying with the opt-out
26 request.
27 (b) Nothing in this title shall be construed to require a business
28 to comply with the title by including the required links and text
29 on the homepage that the business makes available to the public
30 generally, if the business maintains a separate and additional
31 homepage that is dedicated to California consumers and that
32 includes the required links and text, and the business takes
33 reasonable steps to ensure that California consumers are directed
34 to the homepage for California consumers and not the homepage
35 made available to the public generally.
36 (c) A consumer may authorize another person solely to opt-out
37 of the sale of the consumer's personal information on the
38 consumer's behalf, and a business shall comply with an opt-out
39 request received from a person authorized by the consumer to act
Page 14 1 on the consumer's behalf, pursuant to regulations adopted by the
2 Attorney General.

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Page 14 3 SEC. 9. Section 1798.140 of the Civil Code, as added by
4 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
5 1798.140. For purposes of this title:
6 (a) "Aggregate consumer information" means information that
7 relates to a group or category of consumers, from which individual
8 consumer identities have been removed, that is not linked or
9 reasonably linkable to any consumer or household, including via
10 a device. "Aggregate consumer information" does not mean one
11 or more individual consumer records that have been deidentified.
12 (b) "Biometric information" means an individual's
13 physiological, biological or behavioral characteristics, including
14 an individual's deoxyribonucleic acid (DNA), that can be used,
15 singly or in combination with each other or with other identifying
16 data, to establish individual identity. Biometric information
17 includes, but is not limited to, imagery of the iris, retina,
18 fingerprint, face, hand, palm, vein patterns, and voice recordings,
19 from which an identifier template, such as a faceprint, a minutiae
20 template, or a voiceprint, can be extracted, and keystroke patterns
21 or rhythms, gait patterns or rhythms, and sleep, health, or exercise
22 data that contain identifying information.
23 (c) "Business" means:
24 (1) A sole proprietorship, partnership, limited liability company,
25 corporation, association, or other legal entity that is organized or
26 operated for the profit or financial benefit of its shareholders or
27 other owners, that collects consumers' personal information, or
28 on the behalf of which such information is collected and that alone,
29 or jointly with others, determines the purposes and means of the
30 processing of consumers' personal information, that does business
31 in the State of California, and that satisfies one or more of the
32 following thresholds:
33 (A) Has annual gross revenues in excess of twenty-five million
34 dollars (\$25,000,000), as adjusted pursuant to paragraph (5) of
35 subdivision (a) of Section 1798.185.
36 (B) Alone or in combination, annually buys, receives for the
37 business's commercial purposes, sells, or shares for commercial
38 purposes, alone or in combination, the personal information of
39 50,000 or more consumers, households, or devices.
Page 15 1 (C) Derives 50 percent or more of its annual revenues from
2 selling consumers' personal information.

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Page 15 3 (2) Any entity that controls or is controlled by a business, as
4 defined in paragraph (1), and that shares common branding with
5 the business. “Control” or “controlled” means ownership of, or
6 the power to vote, more than 50 percent of the outstanding shares
7 of any class of voting security of a business; control in any manner
8 over the election of a majority of the directors, or of individuals
9 exercising similar functions; or the power to exercise a controlling
10 influence over the management of a company. “Common branding”
11 means a shared name, servicemark, or trademark.
12 (d) “Business purpose” means the use of personal information
13 for the business’s or a service provider’s operational purposes, or
14 other notified purposes, provided that the use of personal
15 information shall be reasonably necessary and proportionate to
16 achieve the operational purpose for which the personal information
17 was collected or processed or for another operational purpose that
18 is compatible with the context in which the personal information
19 was collected. Business purposes are:
20 (1) Auditing related to a current interaction with the consumer
21 and concurrent transactions, including, but not limited to, counting
22 ad impressions to unique visitors, verifying positioning and quality
23 of ad impressions, and auditing compliance with this specification
24 and other standards.
25 (2) Detecting security incidents, protecting against malicious,
26 deceptive, fraudulent, or illegal activity, and prosecuting those
27 responsible for that activity.
28 (3) Debugging to identify and repair errors that impair existing
29 intended functionality.
30 (4) Short-term, transient use, provided the personal information
31 that is not disclosed to another third party and is not used to build
32 a profile about a consumer or otherwise alter an individual
33 consumer’s experience outside the current interaction, including,
34 but not limited to, the contextual customization of ads shown as
35 part of the same interaction.
36 (5) Performing services on behalf of the business or service
37 provider, including maintaining or servicing accounts, providing
38 customer service, processing or fulfilling orders and transactions,
39 verifying customer information, processing payments, providing
40 financing, providing advertising or marketing services, providing
Page 16 1 analytic services, or providing similar services on behalf of the
2 business or service provider.

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Page 16 3 (6) Undertaking internal research for technological development
4 and demonstration.
5 (7) Undertaking activities to verify or maintain the quality or
6 safety of a service or device that is owned, manufactured,
7 manufactured for, or controlled by the business, and to improve,
8 upgrade, or enhance the service or device that is owned,
9 manufactured, manufactured for, or controlled by the business.
10 (e) “Collects,” “collected,” or “collection” means buying,
11 renting, gathering, obtaining, receiving, or accessing any personal
12 information pertaining to a consumer by any means. This includes
13 receiving information from the consumer, either actively or
14 passively, or by observing the consumer’s behavior.
15 (f) “Commercial purposes” means to advance a person’s
16 commercial or economic interests, such as by inducing another
17 person to buy, rent, lease, join, subscribe to, provide, or exchange
18 products, goods, property, information, or services, or enabling or
19 effecting, directly or indirectly, a commercial transaction.
20 “Commercial purposes” do not include for the purpose of engaging
21 in speech that state or federal courts have recognized as
22 noncommercial speech, including political speech and journalism.
23 (g) “Consumer” means a natural person who is a California
24 resident, as defined in Section 17014 of Title 18 of the California
25 Code of Regulations, as that section read on September 1, 2017,
26 however identified, including by any unique identifier.
27 (h) “Deidentified” means information that cannot reasonably
28 identify, relate to, describe, be capable of being associated with,
29 or be linked, directly or indirectly, to a particular consumer,
30 provided that a business that uses deidentified information:
31 (1) Has implemented technical safeguards that prohibit
32 reidentification of the consumer to whom the information may
33 pertain.
34 (2) Has implemented business processes that specifically
35 prohibit reidentification of the information.
36 (3) Has implemented business processes to prevent inadvertent
37 release of deidentified information.
38 (4) Makes no attempt to reidentify the information.
39 (i) “Designated methods for submitting requests” means a
40 mailing address, email address, Internet Web page, Internet Web
Page 17 1 portal, toll-free telephone number, or other applicable contact
2 information, whereby consumers may submit a request or direction

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Page 17 3 under this title, and any new, consumer-friendly means of
4 contacting a business, as approved by the Attorney General
5 pursuant to Section 1798.185.
6 (j) “Device” means any physical object that is capable of
7 connecting to the Internet, directly or indirectly, or to another
8 device.
9 (k) “Health insurance information” means a consumer’s
10 insurance policy number or subscriber identification number, any
11 unique identifier used by a health insurer to identify the consumer,
12 or any information in the consumer’s application and claims
13 history, including any appeals records, if the information is linked
14 or reasonably linkable to a consumer or household, including via
15 a device, by a business or service provider.
16 (l) “Homepage” means the introductory page of an Internet Web
17 site and any Internet Web page where personal information is
18 collected. In the case of an online service, such as a mobile
19 application, homepage means the application’s platform page or
20 download page, a link within the application, such as from the
21 application configuration, “About,” “Information,” or settings
22 page, and any other location that allows consumers to review the
23 notice required by subdivision (a) of Section 1798.145, including,
24 but not limited to, before downloading the application.
25 (m) “Infer” or “inference” means the derivation of information,
26 data, assumptions, or conclusions from facts, evidence, or another
27 source of information or data.
28 (n) “Person” means an individual, proprietorship, firm,
29 partnership, joint venture, syndicate, business trust, company,
30 corporation, limited liability company, association, committee,
31 and any other organization or group of persons acting in concert.
32 (o) (1) “Personal information” means information that identifies,
33 relates to, describes, is capable of being associated with, or could
34 reasonably be linked, directly or indirectly, with a particular
35 consumer or household. Personal information includes, but is not
36 limited to, the following: *following if it identifies, relates to,*
+ *describes, is capable of being associated with, or could be*
+ *reasonably linked, directly or indirectly, with a particular*
+ *consumer or household:*
37 (A) Identifiers such as a real name, alias, postal address, unique
38 personal identifier, online identifier, Internet Protocol address,

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Page 17 39 email address, account name, social security number, driver's
Page 18 1 license number, passport number, or other similar identifiers.
3 (B) Any categories of personal information described in
4 subdivision (e) of Section 1798.80.
5 (C) Characteristics of protected classifications under California
6 or federal law.
7 (D) Commercial information, including records of personal
8 property, products or services purchased, obtained, or considered,
9 or other purchasing or consuming histories or tendencies.
10 (E) Biometric information.
11 (F) Internet or other electronic network activity information,
12 including, but not limited to, browsing history, search history, and
13 information regarding a consumer's interaction with an Internet
14 Web site, application, or advertisement.
15 (G) Geolocation data.
16 (H) Audio, electronic, visual, thermal, olfactory, or similar
17 information.
18 (I) Professional or employment-related information.
19 (J) Education information, defined as information that is not
20 publicly available personally identifiable information as defined
21 in the Family Educational Rights and Privacy Act (20 U.S.C.
22 section 1232g, 34 C.F.R. Part 99).
23 (K) Inferences drawn from any of the information identified in
24 this subdivision to create a profile about a consumer reflecting the
25 consumer's preferences, characteristics, psychological trends,
26 predispositions, behavior, attitudes, intelligence, abilities, and
27 aptitudes.
28 (2) "Personal information" does not include publicly available
29 information. For these purposes, "publicly available" means
30 information that is lawfully made available from federal, state, or
31 local government records, if any conditions associated with such
32 information. "Publicly available" does not mean biometric
33 information collected by a business about a consumer without the
34 consumer's knowledge. Information is not "publicly available" if
35 that data is used for a purpose that is not compatible with the
36 purpose for which the data is maintained and made available in
37 the government records or for which it is publicly maintained.
38 "Publicly available" does not include consumer information that
39 is deidentified or aggregate consumer information.

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Page 19 1 (p) "Probabilistic identifier" means the identification of a
2 consumer or a device to a degree of certainty of more probable
3 than not based on any categories of personal information included
4 in, or similar to, the categories enumerated in the definition of
5 personal information.
6 (q) "Processing" means any operation or set of operations that
7 are performed on personal data or on sets of personal data, whether
8 or not by automated means.
9 (r) "Pseudonymize" or "Pseudonymization" means the
10 processing of personal information in a manner that renders the
11 personal information no longer attributable to a specific consumer
12 without the use of additional information, provided that the
13 additional information is kept separately and is subject to technical
14 and organizational measures to ensure that the personal information
15 is not attributed to an identified or identifiable consumer.
16 (s) "Research" means scientific, systematic study and
17 observation, including basic research or applied research that is in
18 the public interest and that adheres to all other applicable ethics
19 and privacy laws or studies conducted in the public interest in the
20 area of public health. Research with personal information that may
21 have been collected from a consumer in the course of the
22 consumer's interactions with a business's service or device for
23 other purposes shall be:
24 (1) Compatible with the business purpose for which the personal
25 information was collected.
26 (2) Subsequently pseudonymized and deidentified, or
27 deidentified and in the aggregate, such that the information cannot
28 reasonably identify, relate to, describe, be capable of being
29 associated with, or be linked, directly or indirectly, to a particular
30 consumer.
31 (3) Made subject to technical safeguards that prohibit
32 reidentification of the consumer to whom the information may
33 pertain.
34 (4) Subject to business processes that specifically prohibit
35 reidentification of the information.
36 (5) Made subject to business processes to prevent inadvertent
37 release of deidentified information.
38 (6) Protected from any reidentification attempts.
39 (7) Used solely for research purposes that are compatible with
40 the context in which the personal information was collected.

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Page 20 1 (8) Not be used for any commercial purpose.
2 (9) Subjected by the business conducting the research to
3 additional security controls limit access to the research data to only
4 those individuals in a business as are necessary to carry out the
5 research purpose.
6 (t) (1) “Sell,” “selling,” “sale,” or “sold,” means selling, renting,
7 releasing, disclosing, disseminating, making available, transferring,
8 or otherwise communicating orally, in writing, or by electronic or
9 other means, a consumer’s personal information by the business
10 to another business or a third party for monetary or other valuable
11 consideration.
12 (2) For purposes of this title, a business does not sell personal
13 information when:
14 (A) A consumer uses or directs the business to intentionally
15 disclose personal information or uses the business to intentionally
16 interact with a third party, provided the third party does not also
17 sell the personal information, unless that disclosure would be
18 consistent with the provisions of this title. An intentional interaction
19 occurs when the consumer intends to interact with the third party,
20 via one or more deliberate interactions. Hovering over, muting,
21 pausing, or closing a given piece of content does not constitute a
22 consumer’s intent to interact with a third party.
23 (B) The business uses or shares an identifier for a consumer
24 who has opted out of the sale of the consumer’s personal
25 information for the purposes of alerting third parties that the
26 consumer has opted out of the sale of the consumer’s personal
27 information.
28 (C) The business uses or shares with a service provider personal
29 information of a consumer that is necessary to perform a business
30 purpose if both of the following conditions are met:
34 (i) The business has provided notice that information being used
35 or shared in its terms and conditions consistent with Section
36 1798.135.
37 (ii) The service provider does not further collect, sell, or use the
38 personal information of the consumer except as necessary to
39 perform the business purpose.

Page 21 1 (D) The business transfers to a third party the personal
2 information of a consumer as an asset that is part of a merger,
3 acquisition, bankruptcy, or other transaction in which the third
4 party assumes control of all or part of the business, provided that

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Page 21 5 information is used or shared consistently with Sections 1798.110
6 and 1798.115. If a third party materially alters how it uses or shares
7 the personal information of a consumer in a manner that is
8 materially inconsistent with the promises made at the time of
9 collection, it shall provide prior notice of the new or changed
10 practice to the consumer. The notice shall be sufficiently prominent
11 and robust to ensure that existing consumers can easily exercise
12 their choices consistently with Section 1798.120. This
13 subparagraph does not authorize a business to make material,
14 retroactive privacy policy changes or make other changes in their
15 privacy policy in a manner that would violate the Unfair and
16 Deceptive Practices Act (Chapter 5 (commencing with Section
17 17200) of Part 2 of Division 7 of the Business and Professions
18 Code).

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

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

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

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

Page 22 1 (2) (A) A person to whom the business discloses a consumer’s
2 personal information for a business purpose pursuant to a written
3 contract, provided that the contract:

4 ~~(A)~~

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

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Page 22 6 (i)
+ (I) Selling the personal information.
7 (ii)
+ (II) Retaining, using, or disclosing the personal information for
8 any purpose other than for the specific purpose of performing the
9 services specified in the contract, including retaining, using, or
10 disclosing the personal information for a commercial purpose other
11 than providing the services specified in the contract.
12 (iii)
+ (III) Retaining, using, or disclosing the information outside of
13 the direct business relationship between the person and the
14 business.
15 (B)
+ (ii) Includes a certification made by the person receiving the
16 personal information that the person understands the restrictions
17 in subparagraph (A) and will comply with them.
18 A
+ (B) A person covered by *this* paragraph-(2) that violates any of
19 the restrictions set forth in this title shall be liable for the violations.
20 A business that discloses personal information to a person covered
21 by *this* paragraph-(2) in compliance with *this* paragraph-(2) shall
22 not be liable under this title if the person receiving the personal
23 information uses it in violation of the restrictions set forth in this
24 title, provided that, at the time of disclosing the personal
25 information, the business does not have actual knowledge, or
26 reason to believe, that the person intends to commit such a
27 violation.
28 (x) “Unique identifier” or “Unique personal identifier” means
29 a persistent identifier that can be used to recognize a consumer, a
30 family, or a device that is linked to a consumer or family, over
31 time and across different services, including, but not limited to, a
32 device identifier; an Internet Protocol address; cookies, beacons,
33 pixel tags, mobile ad identifiers, or similar technology; customer
34 number, unique pseudonym, or user alias; telephone numbers, or
35 other forms of persistent or probabilistic identifiers that can be
36 used to identify a particular consumer or device. For purposes of
37 this subdivision, “family” means a custodial parent or guardian
38 and any minor children over which the parent or guardian has
39 custody.

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Page 23 1 (y) “Verifiable consumer request” means a request that is made
2 by a consumer, by a consumer on behalf of the consumer’s minor
3 child, or by a natural person or a person registered with the
4 Secretary of State, authorized by the consumer to act on the
5 consumer’s behalf, and that the business can reasonably verify,
6 pursuant to regulations adopted by the Attorney General pursuant
7 to paragraph (7) of subdivision (a) of Section 1798.185 to be the
8 consumer about whom the business has collected personal
9 information. A business is not obligated to provide information to
10 the consumer pursuant to Sections 1798.110 and 1798.115 if the
11 business cannot verify, pursuant this subdivision and regulations
12 adopted by the Attorney General pursuant to paragraph (7) of
13 subdivision (a) of Section 1798.185, that the consumer making
14 the request is the consumer about whom the business has collected
15 information or is a person authorized by the consumer to act on
16 such consumer’s behalf.
17 SEC. 10. Section 1798.145 of the Civil Code, as added by
18 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
19 read:
20 1798.145. (a) The obligations imposed on businesses by this
21 title shall not restrict a business’s ability to:
22 (1) Comply with federal, state, or local laws.
23 (2) Comply with a civil, criminal, or regulatory inquiry,
24 investigation, subpoena, or summons by federal, state, or local
25 authorities.
26 (3) Cooperate with law enforcement agencies concerning
27 conduct or activity that the business, service provider, or third
28 party reasonably and in good faith believes may violate federal,
29 state, or local law.
30 (4) Exercise or defend legal claims.
31 (5) Collect, use, retain, sell, or disclose consumer information
32 that is deidentified or in the aggregate consumer information.
33 (6) Collect or sell a consumer’s personal information if every
34 aspect of that commercial conduct takes place wholly outside of
35 California. For purposes of this title, commercial conduct takes
36 place wholly outside of California if the business collected that
37 information while the consumer was outside of California, no part
38 of the sale of the consumer’s personal information occurred in
39 California, and no personal information collected while the
40 consumer was in California is sold. This paragraph shall not permit

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Page 24 1 a business from storing, including on a device, personal information
2 about a consumer when the consumer is in California and then
3 collecting that personal information when the consumer and stored
4 personal information is outside of California.
5 (b) The obligations imposed on businesses by Sections 1798.110
6 to 1798.135, inclusive, shall not apply where compliance by the
7 business with the title would violate an evidentiary privilege under
8 California law and shall not prevent a business from providing the
9 personal information of a consumer to a person covered by an
10 evidentiary privilege under California law as part of a privileged
11 communication.
12 (c) (1) This title shall not apply to ~~protected or health~~
13 ~~information that is collected by a covered entity governed any of~~
+ ~~the following:~~
14 (A) *Medical information governed by the Confidentiality of*
15 *Medical Information Act (Part 2.6 (commencing with Section 56*
+ *of Division 1)) or governed 56) of Division 1) or protected health*
+ *information that is collected by a covered entity or business*
16 *associate governed by the privacy, security, and breach notification*
17 *rules issued by the federal United States Department of Health and*
18 *Human Services, Parts 160 and 164 of Title 45 of the Code of*
19 *Federal Regulations, established pursuant to the Health Insurance*
20 *Portability and Availability Accountability Act of 1996. For 1996*
+ *(Public Law 104-191) and the Health Information Technology for*
+ *Economic and Clinical Health Act (Public Law 111-5).*
+ (B) *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 ~~definition~~ definitions
21 of “medical information” and “provider of health care” in Section
+ 56.05 shall apply and the definitions of “business associate,”
22 “covered entity,” and “protected health information” and “covered
23 entity” from the federal privacy rule in Section 160.103 of Title
+ 45 of the Code of Federal Regulations shall apply.
24 (d) This title shall not apply to the sale of personal information
25 to or from a consumer reporting agency if that information is to
26 be reported in, or used to generate, a consumer report as defined

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Amendment 21

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Page 24 27 by subdivision (d) of Section 1681a of Title 15 of the United States
28 Code, and use of that information is limited by the federal Fair
29 Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).
30 (e) This title shall not apply to personal information collected,
31 processed, sold, or disclosed pursuant to the federal
32 Gramm-Leach-Bliley Act (Public Law 106-102), and implementing
33 regulations, ~~if it is in conflict with that law.~~ *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.*
34 (f) This title shall not apply to personal information collected,
35 processed, sold, or disclosed pursuant to the Driver's Privacy
36 Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.), ~~if it is in~~
37 ~~conflict with that act. seq.). This section shall not apply to Section~~
38 *1798.150.*
39 (g) Notwithstanding a business's obligations to respond to and
40 honor consumer rights requests pursuant to this title:
Page 25 1 (1) A time period for a business to respond to any verified
2 consumer request may be extended by up to 90 additional days
3 where necessary, taking into account the complexity and number
4 of the requests. The business shall inform the consumer of any
5 such extension within 45 days of receipt of the request, together
6 with the reasons for the delay.
7 (2) If the business does not take action on the request of the
8 consumer, the business shall inform the consumer, without delay
9 and at the latest within the time period permitted of response by
10 this section, of the reasons for not taking action and any rights the
11 consumer may have to appeal the decision to the business.
12 (3) If requests from a consumer are manifestly unfounded or
13 excessive, in particular because of their repetitive character, a
14 business may either charge a reasonable fee, taking into account
15 the administrative costs of providing the information or
16 communication or taking the action requested, or refuse to act on
17 the request and notify the consumer of the reason for refusing the
18 request. The business shall bear the burden of demonstrating that
19 any verified consumer request is manifestly unfounded or
20 excessive.
21 (h) A business that discloses personal information to a service
22 provider shall not be liable under this title if the service provider
23 receiving the personal information uses it in violation of the

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Amendment 29

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Page 25 24 restrictions set forth in the title, provided that, at the time of
25 disclosing the personal information, the business does not have
26 actual knowledge, or reason to believe, that the service provider
27 intends to commit such a violation. A service provider shall
28 likewise not be liable under this title for the obligations of a
29 business for which it provides services as set forth in this title.

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

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

36 (k) The rights afforded to consumers and the obligations
37 imposed on any business under this title shall not be construed to
38 *apply to the extent that they infringe on the business's speech rights*
39 *that state or federal courts have recognized as noncommercial*
40 *speech, including political speech and journalism. noncommercial*
+ *activities of a person or entity described in subdivision (b) of*
+ *Section 2 of Article I of the California Constitution.*

Page 26 1 SEC. 11. Section 1798.150 of the Civil Code, as added by
2 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
3 read:

4 1798.150. (a) (1) Any consumer whose nonencrypted or
5 nonredacted personal information, as defined in subparagraph (A)
6 of paragraph (1) of subdivision (d) of Section 1798.81.5, is subject
7 to an unauthorized access and exfiltration, theft, or disclosure as
8 a result of the business's violation of the duty to implement and
9 maintain reasonable security procedures and practices appropriate
10 to the nature of the information to protect the personal information
11 may institute a civil action for any of the following:

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

16 (B) Injunctive or declaratory relief.

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

18 (2) In assessing the amount of statutory damages, the court shall
19 consider any one or more of the relevant circumstances presented
20 by any of the parties to the case, including, but not limited to, the
21 nature and seriousness of the misconduct, the number of violations,
22 the persistence of the misconduct, the length of time over which

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Page 26 23 the misconduct occurred, the willfulness of the defendant's
24 misconduct, and the defendant's assets, liabilities, and net worth.
25 (b) Actions pursuant to this section may be brought by a
26 consumer if all of the following requirements are met:
27 (1) Prior to initiating any action against a business for statutory
28 damages on an individual or class-wide basis, a consumer shall
29 provide a business 30 days' written notice identifying the specific
30 provisions of this title the consumer alleges have been or are being
31 violated. In the event a cure is possible, if within the 30 days the
32 business actually cures the noticed violation and provides the
33 consumer an express written statement that the violations have
34 been cured and that no further violations shall occur, no action for
35 individual statutory damages or class-wide statutory damages may
36 be initiated against the business. No notice shall be required prior
37 to an individual consumer initiating an action solely for actual
38 pecuniary damages suffered as a result of the alleged violations
39 of this title. If a business continues to violate this title in breach
40 of the express written statement provided to the consumer under
Page 27 1 this section, the consumer may initiate an action against the
2 business to enforce the written statement and may pursue statutory
3 damages for each breach of the express written statement, as well
4 as any other violation of the title that postdates the written
5 statement.
6 (2) A consumer bringing an action shall notify the Attorney
7 General within 30 days that the action has been filed.
8 (3) The Attorney General, upon receiving such notice shall,
9 within 30 days, do one of the following:
10 (A) Notify the consumer bringing the action of the Attorney
11 General's intent to prosecute an action against the violation. If the
12 Attorney General does not prosecute within six months, the
13 consumer may proceed with the action.
14 (B) Refrain from acting within the 30 days, allowing the
15 consumer bringing the action to proceed.
16 (C) Notify the consumer bringing the action that the consumer
17 shall not proceed with the action.
18 (c) The ~~civil cause of~~ *cause of* action established by this section shall
19 apply only to violations ~~of as defined in subdivision (a).~~ *(a) and*
20 *+ shall not be based on violations of any other section of this title.*
21 Nothing in this title shall be interpreted to serve as the basis for a
22 private right of action under any other law. This shall not be

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Amendments 33 & 34**

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Page 27 23 construed to relieve any party from any duties or obligations
24 imposed under other law or the United States or California
+ Constitution.
+ SEC. 12. Section 1798.155 of the Civil Code, as added by
+ Section 3 of Chapter 55 of the Statutes of 2018, is amended to
+ read:
+ 1798.155. (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.
+ (a)
+ (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 ~~as provided in Section 17206 of the Business~~
+ ~~and Professions Code of not more than seven thousand five hundred~~
+ ~~dollars (\$7,500) for each 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.
+ (b) ~~Notwithstanding Section 17206 of the Business and~~
+ ~~Professions Code, any person, business, or service provider that~~
+ ~~intentionally violates this title may be liable for a civil penalty of~~
+ ~~up to seven thousand five hundred dollars (\$7,500) for each~~
+ ~~violation.~~
+ (c) ~~Notwithstanding Section 17206 of the Business and~~
+ ~~Professions Code, any~~ Any civil penalty assessed ~~pursuant to~~
+ ~~Section 17206~~ for a violation of this title, and the proceeds of any
+ settlement of an action brought pursuant to subdivision (a); (b),
+ shall be allocated as follows:
+ (1) ~~Twenty percent to be deposited in the Consumer Privacy~~
+ Fund, created within the General Fund pursuant to subdivision (a)
+ of ~~Section 1798.109, 1798.160~~ with the intent to fully offset any
+ costs incurred by the state courts and the Attorney General in
+ connection with this title.
+ (2) ~~Eighty percent to the jurisdiction on whose behalf the action~~
+ leading to the civil penalty was brought.

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

Page 27 25 ~~SEC. 12.~~

Amendment 36

+ ~~SEC. 13.~~ Section 1798.185 of the Civil Code, as added by
26 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
27 read:

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

Amendment 37
Amendment 38

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

37 (2) Updating as needed the definition of unique identifiers to
38 address changes in technology, data collection, obstacles to
39 implementation, and privacy concerns, and additional categories
40 to the definition of designated methods for submitting requests to
Page 28 1 facilitate a consumer's ability to obtain information from a business
2 pursuant to Section 1798.130.

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

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

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

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

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

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Page 28 18 (5) Adjusting the monetary threshold in subparagraph (A) of
19 paragraph (1) of subdivision (c) of Section 1798.140 in January
20 of every odd-numbered year to reflect any increase in the Consumer
21 Price Index.
22 (6) Establishing rules, procedures, and any exceptions necessary
23 to ensure that the notices and information that businesses are
24 required to provide pursuant to this title are provided in a manner
25 that may be easily understood by the average consumer, are
26 accessible to consumers with disabilities, and are available in the
27 language primarily used to interact with the consumer, including
28 establishing rules and guidelines regarding financial incentive
29 offerings, within one year of passage of this title and as needed
30 thereafter.
31 (7) Establishing rules and procedures to further the purposes of
32 Sections 1798.110 and 1798.115 and to facilitate a consumer's or
33 the consumer's authorized agent's ability to obtain information
34 pursuant to Section 1798.130, with the goal of minimizing the
35 administrative burden on consumers, taking into account available
36 technology, security concerns, and the burden on the business, to
37 govern a business's determination that a request for information
38 received by a consumer is a verifiable consumer request, including
39 treating a request submitted through a password-protected account
40 maintained by the consumer with the business while the consumer
Page 29 1 is logged into the account as a verifiable consumer request and
2 providing a mechanism for a consumer who does not maintain an
3 account with the business to request information through the
4 business's authentication of the consumer's identity, within one
5 year of passage of this title and as needed thereafter.
6 (b) The Attorney General may adopt additional regulations as
7 necessary to further the purposes of this title.
8
9 + (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.*
10 SEC. 13.
+ SEC. 14. Section 1798.192 of the Civil Code, as added by
11 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
12 read:
13 1798.192. Any provision of a contract or agreement of any
kind that purports to waive or limit in any way a consumer's rights

Amendment 40

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Page 29 14 under this title, including, but not limited to, any right to a remedy
15 or means of enforcement, shall be deemed contrary to public policy
16 and shall be void and unenforceable. This section shall not prevent
17 a consumer from declining to request information from a business,
18 declining to opt-out of a business's sale of the consumer's personal
19 information, or authorizing a business to sell the consumer's
20 personal information after previously opting out.

21 ~~SEC. 14.~~

+ SEC. 15. Section 1798.196 of the Civil Code, as added by
22 Section 3 of Chapter 55 of the Statutes of 2018, is amended to
23 read:

24 1798.196. This title is intended to supplement federal and state
25 law, if permissible, but shall not apply if such application is
26 preempted by, or in conflict with, federal law or the United States
27 or California Constitution.

28 ~~SEC. 15.~~

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

31 1798.198. (a) Subject to limitation provided in subdivision
32 (b), and in Section 1798.199, this title shall be operative January
+ 1, 2020.

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

+ SEC. 17. Section 1798.199 is added to the Civil Code, to read:

+ 1798.199. Notwithstanding Section 1798.198, Section 1798.180
+ shall be operative on the effective date of the act adding this
+ section.

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

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

Amendment 42

Amendment 43

Amendment 44

Amendment 45

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AMENDED IN ASSEMBLY JULY 3, 2018

AMENDED IN SENATE APRIL 23, 2018

AMENDED IN SENATE APRIL 12, 2018

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1459

Introduced by Senator Cannella
(Coauthor: Senator Galgiani)
(Coauthor: Assembly Member Caballero)

February 16, 2018

An act to amend Section 2279 of the Food and Agricultural Code, relating to cannabis cultivation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, as amended, Cannella. Cannabis cultivation: county agricultural commissioners: reporting.

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. Under existing law, the Department of Food and Agriculture may issue cannabis cultivation licenses to commercial cannabis businesses that differ depending on the size of the cultivation site and whether the site is indoor, outdoor, or mixed.

Existing law establishes in each county a county department of agriculture under the control of a county agricultural commissioner. Existing law requires a county agricultural commissioner to compile, and to transmit to the Secretary of Food and Agriculture, reports of the condition, acreage, production, and value of the agricultural products in the county.

This bill would provide that, for purposes of this report, agricultural products that a county agricultural commissioner may include cannabis produced in the county. ~~The bill would require any data on cannabis production to be included county in an above-described report, as an addendum to the report. The bill would provide that this data may be organized by categories including, but not limited to, state cultivator license type and other specified categories. The bill would prohibit a county agricultural commissioner from seeking reimbursement from certain funding sources for expenses incurred pursuant to this authority.~~

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

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

- 1 SECTION 1. Section 2279 of the Food and Agricultural Code
- 2 is amended to read:
- 3 2279. (a) The commissioner shall compile reports of the
- 4 condition, acreage, production, and value of the agricultural
- 5 products in the commissioner's county. The commissioner may
- 6 publish the reports, and shall transmit a copy of them to the
- 7 secretary.
- 8 (b) (1) ~~For purposes of a report compiled pursuant to~~
- 9 ~~subdivision (a), agricultural products may, at the commissioner's~~
- 10 ~~discretion, The commissioner may include cannabis produced in~~
- 11 ~~the county. Any data on cannabis production shall be included~~
- 12 ~~county in a report compiled pursuant to subdivision (a), as an~~
- 13 ~~addendum to the report.~~
- 14 (2) Data on cannabis production that is included in a report
- 15 pursuant to paragraph (1) may be organized by categories
- 16 including, but not limited to, the following:
- 17 (A) State cultivator license type, as set forth in Chapter 5
- 18 (commencing with Section 26050) of Division 10 of the Business
- 19 and Professions Code, and regulations adopted pursuant to that
- 20 chapter.

1 (B) Local license, permit, or other authorization type, as
2 described in Section 26200 of the Business and Professions Code.

3 (C) Price tier, including for different strains of cannabis,
4 different production methods, or different parts of a plant, such as
5 flowers or leaves.

6 *(3) If cannabis is included in a report pursuant to this*
7 *subdivision, the commissioner may not seek reimbursement for*
8 *expenses incurred for its inclusion from either of the following*
9 *sources:*

10 (A) *The Department of Food and Agriculture Fund.*

11 (B) *Funding that may otherwise be available for the purposes*
12 *of this subdivision from a cooperative agreement entered into*
13 *pursuant to Section 2222.*

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STATE CAPITOL
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(209) 581-9827

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California State Senate

SENATOR
ANTHONY CANNELLA
TWELFTH SENATE DISTRICT



COMMITTEES

RULES
VICE-CHAIR

TRANSPORTATION
& HOUSING
VICE-CHAIR

ENERGY, UTILITIES &
COMMUNICATIONS

GOVERNMENTAL
ORGANIZATION

August 23, 2018

Chairman Ken Cooley
Assembly Committee on Rules
California State Capitol, Room 3061
Sacramento, CA 95814

RE: Urgency Clause Request – SB 1459 (Cannella): Provisional Annual Cultivation License

Dear Chairman Cooley,

I respectfully request your approval for an urgency clause to my SB 1459, which as proposed to be amended, would allow for the holder of a temporary license for cultivation issued by the Department of Food and Agriculture, to apply for a provisional annual license until they are granted or denied a non-temporary license.

The sunset date in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) states that temporary licenses will no longer be issued after the end of this year. With the release of the new draft amendments, counties were also notified that the State will no longer issue extensions to previously issued temporary licenses.

Counties need time to operate these discretionary permits. Without action by the State to the CEQA and water permit issues, local businesses that counties allowed to operate (under prior regulations) while their permits were being processed, will have to stop operations at the end of this year, disrupting the market and prohibiting expected tax revenues.

This bill would go into effect immediately to avoid a major disruption in the commercial cannabis market place and allow state licensing agencies and local authorizing entities to immediately address a significant number of applications pending. Thank you for your consideration, and please feel free to contact me at 916.651.4012 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to be "AC", representing Anthony Cannella.

ANTHONY CANNELLA
Senator, 12th District

PROPOSED AMENDMENTS

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SUBSTANTIVE

PROPOSED AMENDMENTS TO SENATE BILL NO. 1459

AMENDED IN ASSEMBLY JULY 3, 2018

AMENDED IN SENATE APRIL 23, 2018

AMENDED IN SENATE APRIL 12, 2018

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1459

Introduced by Senator Cannella

~~(Coauthor: Senator)~~ Coauthors: Senators Galgiani and McGuire)

~~(Coauthor: Coauthors: Assembly Member)~~ Members Caballero and Wood)

February 16, 2018

An act to add and repeal Section 26050.2 of the Business and Professions Code, and to amend Section 2279 of the Food and Agricultural Code, relating to cannabis ~~cultivation~~: cultivation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1459, as amended, Cannella. Cannabis cultivation: county agricultural commissioners: ~~reporting~~: reporting: provisional annual license.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and



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Amendments 1 & 2
Amendments 3, 4 & 5

Amendment 6

Amendment 7

PROPOSED AMENDMENTS

SB 1459

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regulation of commercial medicinal and adult-use cannabis activities. Under existing law, the Department of Food and Agriculture may issue cannabis cultivation licenses to commercial cannabis businesses that differ depending on the size of the cultivation site and whether the site is indoor, outdoor, or mixed.

Existing law establishes in each county a county department of agriculture under the control of a county agricultural commissioner. Existing law requires a county agricultural commissioner to compile, and to transmit to the Secretary of Food and Agriculture, reports of the condition, acreage, production, and value of the agricultural products in the county.

This bill would provide that a county agricultural commissioner may include cannabis produced in the county in an above-described report, as an addendum to the report. The bill would provide that this data may be organized by categories including, but not limited to, state cultivator license type and other specified categories. The bill would prohibit a county agricultural commissioner from seeking reimbursement from certain funding sources for expenses incurred pursuant to this authority.

Existing law requires the issuance of MAUCRSA licenses to be valid for 12 months from the date of issuance and authorizes the license to be renewed annually. MAUCRSA prohibits a licensing authority from approving an application for a state license if approval of the state license will violate the provisions of certain local ordinances or regulations. MAUCRSA, until January 1, 2019, authorizes a state licensing authority to issue a temporary license if the applicant submits, among other things, a copy of a specified authorization issued by a local jurisdiction. MAUCRSA requires the temporary license to be valid for a period of 120 days and authorizes the temporary license to be extended for additional 90-day period at the discretion of the licensing authority.

This bill, until January 1, 2020, would authorize a holder of a temporary license for cultivation to apply for a provisional annual license if specified conditions are met, including attesting to submitting a complete application for a license, permit, or other authorization issued by the local jurisdiction. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would require the provisional annual license to be valid for 12 months and require the fees to be equal to the fees for a nonprovisional license of the same classification. The bill would require a holder of a provisional annual license to participate in the track and trace program

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PROPOSED AMENDMENTS

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SB 1459

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in the same manner as the holder of a nonprovisional license. This bill would exempt the issuance of a provisional annual license from the California Environmental Quality Act.

The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure, authorizes the Legislature to amend the act to further the purposes and intent of the act with a $\frac{2}{3}$ vote of the membership of both houses of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that its provisions further specified purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

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

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

- + SECTION 1. Section 26050.2 is added to the Business and
- + Professions Code, to read:
- + 26050.2. (a) A holder of a temporary license for cultivation
- + may apply for a provisional annual license if the following
- + conditions are met:
- + (1) The applicant attests to submitting a complete application
- + for a license, permit, or other authorization, issued by the local
- + jurisdiction.
- + (2) If the licensee is required to obtain any certificate, permit,
- + license, or lake or streambed alteration agreement issued by the
- + State Water Resources Control Board, a regional water quality
- + control board, or the Department of Fish and Wildlife, the licensee
- + shall provide evidence that the certificate, permit, license, or lake
- + or streambed alteration agreement has been obtained, or that a
- + complete application has been submitted to, and is pending with,
- + the appropriate state agency.

Amendment 8

PROPOSED AMENDMENTS

SB 1459

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- + (3) *The applicant meets all other licensure requirements for the applicable license classification.*
- + (4) *The governing body of the location jurisdiction in which the applicant would operate has made, by resolution, a finding that the local jurisdiction lacks the adequate resources to process all submitted cultivation license applications prior to January 1, 2019.*
- + (b) *A provisional annual license shall be valid for 12 months. The application and licensing fees for a provisional annual license shall be equal to the fees for a nonprovisional license of the same classification.*
- + (c) *A holder of a provisional annual license shall participate in the track and trace program established pursuant to Section 26067 in the same manner as the holder of a nonprovisional license.*
- + (d) *Issuance of a provisional annual license under this section shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.*
- + (e) *This section shall remain in effect only until January 1, 2020, and as of that date is repealed.*

Page 2

1 SECTION 1.

2 SEC. 2. Section 2279 of the Food and Agricultural Code is
+ amended to read:

3 2279. (a) The commissioner shall compile reports of the
4 condition, acreage, production, and value of the agricultural
5 products in the commissioner's county. The commissioner may
6 publish the reports, and shall transmit a copy of them to the
7 secretary.

8 (b) (1) The commissioner may include cannabis produced in
11 the county in a report compiled pursuant to subdivision (a), as an
13 addendum to the report.

14 (2) Data on cannabis production that is included in a report
15 pursuant to paragraph (1) may be organized by categories
16 including, but not limited to, the following:

17 (A) State cultivator license type, as set forth in Chapter 5
18 (commencing with Section 26050) of Division 10 of the Business
19 and Professions Code, and regulations adopted pursuant to that
20 chapter.

Page 3

1 (B) Local license, permit, or other authorization type, as
2 described in Section 26200 of the Business and Professions Code.

Amendment 9

PROPOSED AMENDMENTS

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SB 1459

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Page 3 3 (C) Price tier, including for different strains of cannabis,
4 different production methods, or different parts of a plant, such as
5 flowers or leaves.

6 (3) If cannabis is included in a report pursuant to this
7 subdivision, the commissioner may not seek reimbursement for
8 expenses incurred for its inclusion from either of the following
9 sources:

10 (A) The Department of Food and Agriculture Fund.

11 (B) Funding that may otherwise be available for the purposes
12 of this subdivision from a cooperative agreement entered into
13 pursuant to Section 2222.

+ SEC. 3. *No reimbursement is required by this act pursuant to*
+ *Section 6 of Article XIII B of the California Constitution because*
+ *the only costs that may be incurred by a local agency or school*
+ *district will be incurred because this act creates a new crime or*
+ *infraction, eliminates a crime or infraction, or changes the penalty*
+ *for a crime or infraction, within the meaning of Section 17556 of*
+ *the Government Code, or changes the definition of a crime within*
+ *the meaning of Section 6 of Article XIII B of the California*
+ *Constitution.*

+ SEC. 4. *The Legislature finds and declares that Section 1 of*
+ *this act adding Section 26050.2 to the Business and Professions*
+ *Code furthers the purposes and intent of the Control, Regulate*
+ *and Tax Adult Use of Marijuana Act of 2016.*

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

+ *The significant number of cultivation license applications*
+ *pending with local authorities that do not have adequate resources*
+ *to process these applications before the applicants' temporary*
+ *licenses expire on January 1, 2019, threatens to create a major*
+ *disruption in the commercial cannabis marketplace.*

Amendment 10

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