

California Consumer Privacy Act 2018 (AB 375)

The Act began as a ballot initiative which had enough (CA resident) signatures to be placed on the November 2018 election ballot. The Assembly bill was first published on June 21, 2018 and was signed one week later by Governor Brown.

Although the law, as written, goes into effect on January 1, 2020, the CA Attorney General is required to issue regulations by July 1, 2020. Companies must provide a look-back of information to show they have been in compliance beginning January 2020. For more information on the background of the Act, visit: bit.ly/2UksViW

WHO IS COVERED?

“Consumers” – defined broadly to include nearly any California resident

For-profit businesses that:

- Collect Personal Information (PI) from consumers
- Control the processing of PI
- Do business in California AND
- Meet at least one of the following:
 - Annual gross worldwide revenue >\$25M
 - Annually buy, sell, receive, or share for commercial purposes the PI of >50K consumers, households, or devices, or derive > 50% of annual revenue from selling consumer PI
 - Includes worldwide parents and subsidiaries with the same branding even if they do not meet the thresholds

The Service Providers that process PI on a business' behalf

Other Third Parties that receive PI from the business

“Personal Information” is defined as any information that identifies, relates to, describes or is linked either directly or indirectly with a particular consumer or household. However, this excludes publicly available information. (Derived from public records and used in a manner “compatible with the purpose for which the data is maintained.”)

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The CCPA was designed to allow for the following obligations on businesses:

Transparency: Businesses must maintain a privacy policy that describes what PI they collect and CA consumers' rights under CCPA. This entails:

- Disclosing categories of information collected
- Provide information about information disclosure (they described this as a disclosure on the companies' websites)
- Provide linkage for opting out of a database

Access: Businesses must honor consumers' request for specific pieces of PI they maintain as well as categories of PI sold/disclosed to third parties. This entails:

- Providing consumers with their requests for any personal information sold in the last 12 months

Deletion: Businesses must honor consumers' deletion requests.

- The record must be verified before deletion/access
- Consumers must have access to a toll-free number and a website form
- The consumer's request must be completed within 45 days

Opt-out: Businesses must disclose whether they "sell" consumers' PI and allow the consumer to opt-out of such sale.

As for the selling of information, the definition is very broadly defined to include selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating PI to another business or a third party for monetary or other valuable consideration.

Penalties: All research has shown this to be vague, but the most common is that the AG of CA may enforce penalties up to \$7,500 per violation but would be given time to correct the violation.

Disclaimer: The information contained herein has been obtained through sources deemed reliable but cannot be guaranteed as to its accuracy. Any information of special interest should be obtained through independent verification.

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