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How California’s Privacy Act Will Protect Consumers

The California Consumer Privacy Act of 2018 — the first-ever state data privacy law — is set to go into effect Jan. 1, 2020 and could set a de facto standard for other states’ consumer privacy legislation. The rule gives internet users more control over, and information about, how big companies collect and use their data, allows the state to fine companies for violations and, under certain circumstances, lets individual Californians sue companies for failing to keep their data secure.

California’s tough privacy law and the European Union’s sweeping General Data Protection Regulation have emerged as benchmarks in congressional efforts to craft federal privacy standards. California lawmakers, however, have expressed concerns that privacy protections outlined in the state’s legislation could be weakened or preempted by congressional passage of a national data privacy law. Senate Judiciary ranking member Dianne Feinstein (D-Calif.) said recently she would oppose efforts to water down California’s landmark privacy legislation through federal privacy rules. But Republicans and tech industry leaders are calling for federal preemption of state privacy laws in order to avoid a “patchwork” of regulations.



Privacy rights initiated by the CCPA

CCPA expands consumer privacy rights beyond those that typically exist in privacy-related laws, applying to the collection and use of personal information that could be directly or indirectly linked to not just a person but to a **household or digital device** via unique personal identifiers including customer numbers, IP addresses, pixel tags and mobile ad identifiers.

Consumers have more control over how much personal information is collected directly from them or from observed digital behavior, and can hold businesses accountable for misuse of personal information.

INFORMATION COLLECTION DISCLOSURE

Consumer has right to request personal information collected

- Businesses who collect and sell California residents’ personal information must disclose to a consumer, upon request— free of charge and up to two times in a 12-month period — specific pieces of information collected about the consumer, collection sources, purpose for collection or selling of information and third parties with which it is being shared and sold.

Consumer has right to opt-out of sale of personal information

- Businesses and third parties must notify consumers that personal information may be sold and provide easily accessible methods to opt-out of sale at any time, free of penalty or denial of services to the consumer for doing so.
- The opt-out decision must be respected by businesses for at least 12 months before businesses can request that consumers authorize sale of personal information.

Consumer has the right to request that personal info be deleted

- Businesses are required to disclose a consumer’s right to request that personal information be deleted from the records of businesses and third parties with whom the business shared the information.
- Businesses and service providers must comply with a consumer’s deletion request upon receipt of the request.



PRIVATE RIGHT OF ACTION

- CCPA allows consumers to bring civil actions against businesses if unauthorized access and copying, transferral, removal, theft or disclosure of consumers’ nonencrypted or nonredacted personal information occurs as a result of inadequate security procedures and practices.
- Consumers may recover damages of between \$100 and \$750 per incident or actual damages, whichever is greater, and can also seek court orders to stop violators from continuing unauthorized activity.

NONCOMPLIANCE FINES IMPOSED

- Businesses, service providers and persons who violate CCPA face civil penalties of up to \$2,500 per violation or \$7,500 per intentional violation.
- Fines will be deposited into a newly-created Consumer Privacy Fund in the General Fund to offset court and Attorney General costs incurred to support enforcement of the law.



Who must comply

For-profit entities who conduct business in California and who collect and process state residents’ personal information must comply with CCPA rules if they meet at least one of three compliance criteria. Businesses do not have to be physically present in the state in order to be subject to the new law.

ANNUAL GROSS
REVENUE
\$25 million+

ANNUALLY BUY, RECEIVE,
SELL OR SHARE PERSONAL
INFORMATION OF
at least 50,000
consumers, households
or devices

ANNUAL REVENUE FROM
SELLING CONSUMERS’
PERSONAL INFORMATION
at least 50%

Personal information protected by CCPA

The law defines personal information as information that may be linked directly or indirectly to a particular consumer, household or to a device that can connect to the internet or to another device. CCPA does not apply to personal information that is publicly available from federal, state or local government records.

Information that can be associated with a particular individual, household or device including but not limited to:

- Consumer name
- Postal address
- Email address
- Telephone number
- Social security number
- Driver’s license or California Identification card number
- Passport number
- Insurance policy number
- Bank account number
- Credit or debit card number, in combination with security code, access code or password permitting access to financial accounts
- Professional or employment-related information
- Education information not publicly available
- Health insurance policy number or subscriber identification number
- Biometric information (physiological, biological or behavioral characteristics data)
- Records of personal property, products and services purchased
- Geolocation data
- Audio, electronic, visual, thermal, olfactory or similar information
- Device identifier
- IP address
- Pixel tags
- Mobile ad identifiers
- Internet browsing, search and purchasing history
- User alias
- Customer number

Sources: California Legislature, California Consumer Privacy Act of 2018, POLITICO staff reports

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