



The California Consumer Privacy Act

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The California Consumer Privacy Act (CCPA) is one of the most expansive online privacy acts in the country. As first enacted in 2018 and most recently amended in October 2019, the CCPA creates a variety of protections for California residents (consumers) regarding their personal information online, and imposes stringent online data protection and collection procedures for any business operating in California. The CCPA allows California consumers to control how and what kind of personal information businesses can use, which affects business operations nationwide.

WHAT IS PERSONAL INFORMATION?

The CCPA of 2018 regulates the collection or sale of any consumer personal information collected by any business.¹ Personal information is defined by the act to mean “information that could reasonably identify or be associated with a particular consumer.”² As amended in October 2019, the CCPA excludes any information that is processed or aggregated in such a way that it can no longer be tied to, or otherwise identify, a consumer.³

WHAT DOES THE CCPA DO?

The CCPA creates the following four privacy rights for California consumers regarding their personal information:

- **The right to know.** Consumers have the right to make a request for disclosure of personal information a business collects.⁴ Businesses must provide consumers with two or more ways to make their request. At a minimum, this includes a toll-free telephone number and, if a business maintains a website, the address. However, the CCPA requires businesses operating exclusively online to only provide an email address.⁵ Upon receipt of a valid consumer request, a business must disclose: the actual information a business collects; the categories of information; the sources of information; and the categories of any third parties that may handle the information. This information must be provided within 45 days.⁶
- **The right to delete.** Consumers have the right to request that a business delete their personal information. The CCPA, however, provides exceptions to this right. For example, a business is not required to comply with the request if the business needs the personal information to complete a transaction with the consumer, exercise free speech, engage in public research, or comply with a legal obligation.⁷
- **The right to opt-out.** Consumers have the right to tell a business not to sell their personal information (i.e., “opt-out”), and the business must comply with the consumer’s request. A business must provide a clear way to opt-out via a “clear and conspicuous” link on its website that states “Do Not Sell My Personal Information.” This link must be “reasonably accessible” to consumers. A business is prohibited from contacting a consumer regarding opting back into the sale of their personal information for one year after the consumer initially opted out. A person under the age of 16 (minor) is automatically opted-out, and a business is prohibited from selling or sharing the minor’s personal information unless the minor’s parent or guardian, or the minor if he or she is at least 13 years old, affirmatively authorizes the sale of the minor’s personal information.⁸
- **The right to nondiscrimination.** Businesses are prohibited from discriminating or retaliating against a consumer who either requests disclosure of personal information that is collected or opts out as described above. A business may adjust a price if the adjustment is reasonably related to the value that the business provides to the consumer with the consumer’s personal information. A

business may also offer financial incentives for consumers who allow the collection and sale of personal information.⁹

WHAT OBLIGATIONS DOES THE CCPA IMPOSE ON BUSINESSES?

The CCPA applies to any business operating in some capacity in the State of California that collects or processes personal information and meets at least one of the following thresholds:

- Has an annual gross revenue of more than \$25 million.
- Alone or jointly buys, sells, shares, or receives the personal information of at least 50,000 consumers for commercial purposes.
- Derives at least 50% of its annual revenue from selling personal information.¹⁰

The CCPA imposes the following obligations on these businesses: (1) provide adequate notice to consumers before data collection; (2) create procedures to respond to requests from consumers to know, delete, or opt-out, and to respond within specific timeframes; and (3) promote and prioritize transparency of personal information collection procedures, financial incentives to sell personal information, and records of consumer requests.¹¹

If a business fails to remedy a CCPA violation after 30 days' notice, the business is subject to an injunction and a civil penalty of \$2,500 for any violation or \$7,500 for an intentional violation.¹²

Businesses may also be held liable by consumers for any personal information disclosed or stolen due to failure to provide adequate security. Any contract or agreement entered into by a business that attempts to waive or limit consumer rights under the CCPA will be considered void and unenforceable.¹³

WHEN DOES THE CCPA GO INTO EFFECT?

The CCPA will go into effect on January 1, 2020. The California attorney general will begin enforcing the act, and any additional regulations, starting on July 1, 2020.¹⁴ The California attorney general's first proposed regulations were released to the public for comment on October 10, 2019.

WHERE CAN MORE CCPA INFORMATION BE FOUND?

CCPA law: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1121.

Information for consumers and proposed regulations: <https://oag.ca.gov/privacy/ccpa>.

Information for businesses: <https://www.natlawreview.com/article/california-consumer-privacy-act-your-glance-guide-to-key-business-obligations>.

¹ Cal. Civ. Code s. 1798.175.

² Cal. Civ. Code s. 1798.140 (o) (1).

³ CPPA, Cal. Assem. Bill 1355 (2019-2020), Chapter 757 (signed into law on October 11, 2019).

⁴ Cal. Civ. Code s. 1798.100.

⁵ CPPA, Cal. Assem. Bill 1564 (2019-2020), Chapter 759 (signed into law on October 11, 2019).

⁶ Cal. Civ. Code s. 1798.130 (a) (2).

⁷ Cal. Civ. Code s. 1798.105.

⁸ Cal. Civ. Code s. 1798.120.

⁹ Cal. Civ. Code ss. 1798.125 (a) and (b).

¹⁰ Cal. Civ. Code s. 1798.140 (c) (1).

¹¹ Cal. Civ. Code s. 1798.185 (a).

¹² Cal. Civ. Code s. 1798.155 (b).

¹³ Cal. Civ. Code s. 1798.192.

¹⁴ Cal. Civ. Code s. 1798.185 (a).