

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 873**

---

---

**Introduced by Assembly Member Irwin**

February 20, 2019

---

---

An act to amend Sections 1798.140 and 1798.145 of the Civil Code, relating to consumer privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, as amended, Irwin. California Consumer Privacy Act of 2018.

~~Existing~~

*(1) Existing law, the California Consumer Privacy Act of 2018, beginning on January 1, 2020, grants consumers various rights with regard to their personal information held by businesses, including the right to request a business to disclose specific pieces of personal information it has collected. know what categories of personal information and the specific pieces a business collects and to have information held by that business deleted, as specified. Existing law imposes certain responsibilities on the Attorney General in connection with the act, including creating regulations and providing guidance on how to comply with the act.*

*The act excludes from the definition of personal information consumer information that is deidentified, or aggregate consumer information. The act defines "deidentified" to mean information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular consumer, provided that a business using deidentified information has implemented technical safeguards that prohibit reidentification of the consumer to*

*whom the information may pertain, has implemented business processes specifically prohibiting reidentification of the information to prevent inadvertent release, and makes no attempt to reidentify the information.*

*This bill would revise the definition of “deidentified” to instead mean information that does not reasonably identify or link, directly or indirectly, to a particular consumer, provided that the business makes no attempt to reidentify the information and takes reasonable technical and administrative measures designed to ensure that the data is deidentified, publicly commits to maintain and use the data in a deidentified form, and contractually prohibits recipients of the data from trying to reidentify it.*

*(2) Existing law defines “personal information,” as, among other information, that which is capable of being associated with a particular consumer or household.*

*This bill would remove from the scope of the above definition information that “is capable of being associated with” and would also remove the term “household” from this definition.*

*(3) Existing law specifies that the act is not to be construed to require a business to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.*

*This bill would revise this language to delete the reference to information that is not maintained in “a manner that would be considered personal information.” The bill would instead refer to information that is not maintained in personally identified form. The bill would make additional conforming changes to these provisions.*

~~This bill would state the intent of the Legislature to enact legislation relating to the California Consumer Privacy Act of 2018.~~

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

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

- 1     **SECTION 1.** *Section 1798.140 of the Civil Code is amended*
- 2 *to read:*
- 3     1798.140. For purposes of this title:
- 4     (a) “Aggregate consumer information” means information that
- 5 relates to a group or category of consumers, from which individual
- 6 consumer identities have been removed, that is not linked or
- 7 reasonably linkable to any consumer or household, including via

1 a device. “Aggregate consumer information” does not mean one  
2 or more individual consumer records that have been deidentified.

3 (b) “Biometric information” means an individual’s  
4 physiological, biological or behavioral characteristics, including  
5 an individual’s deoxyribonucleic acid (DNA), that can be used,  
6 singly or in combination with each other or with other identifying  
7 data, to establish individual identity. Biometric information  
8 includes, but is not limited to, imagery of the iris, retina,  
9 fingerprint, face, hand, palm, vein patterns, and voice recordings,  
10 from which an identifier template, such as a faceprint, a minutiae  
11 template, or a voiceprint, can be extracted, and keystroke patterns  
12 or rhythms, gait patterns or rhythms, and sleep, health, or exercise  
13 data that contain identifying information.

14 (c) “Business” means:

15 (1) A sole proprietorship, partnership, limited liability company,  
16 corporation, association, or other legal entity that is organized or  
17 operated for the profit or financial benefit of its shareholders or  
18 other owners, that collects consumers’ personal information, or  
19 on the behalf of which such information is collected and that alone,  
20 or jointly with others, determines the purposes and means of the  
21 processing of consumers’ personal information, that does business  
22 in the State of California, and that satisfies one or more of the  
23 following thresholds:

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

27 (B) Alone or in combination, annually buys, receives for the  
28 business’s commercial purposes, sells, or shares for commercial  
29 purposes, alone or in combination, the personal information of  
30 50,000 or more consumers, households, or devices.

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

33 (2) Any entity that controls or is controlled by a business, as  
34 defined in paragraph (1), and that shares common branding with  
35 the business. “Control” or “controlled” means ownership of, or  
36 the power to vote, more than 50 percent of the outstanding shares  
37 of any class of voting security of a business; control in any manner  
38 over the election of a majority of the directors, or of individuals  
39 exercising similar functions; or the power to exercise a controlling

1 influence over the management of a company. “Common branding”  
2 means a shared name, servicemark, or trademark.

3 (d) “Business purpose” means the use of personal information  
4 for the business’s or a service provider’s operational purposes, or  
5 other notified purposes, provided that the use of personal  
6 information shall be reasonably necessary and proportionate to  
7 achieve the operational purpose for which the personal information  
8 was collected or processed or for another operational purpose that  
9 is compatible with the context in which the personal information  
10 was collected. Business purposes are:

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

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

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

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

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

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

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

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

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

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

18 (h) “Deidentified” means information that ~~cannot~~ *does not*  
19 *reasonably identify, relate to, describe, be capable of being*  
20 *associated with, or be linked, directly or indirectly, to a particular*  
21 *consumer, provided that a business that uses deidentified*  
22 *information: or link, directly or indirectly, to a particular*  
23 *consumer, provided that the business makes no attempt to reidentify*  
24 *the information, and takes reasonable technical and administrative*  
25 *measures designed to:*

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

29 ~~(2) Has implemented business processes that specifically~~  
30 ~~prohibit reidentification of the information.~~

31 ~~(3) Has implemented business processes to prevent inadvertent~~  
32 ~~release of deidentified information.~~

33 ~~(4) Makes no attempt to reidentify the information.~~

34 *(1) Ensure that the data is deidentified.*

35 *(2) Publicly commit to maintain and use the data in a*  
36 *deidentified form.*

37 *(3) Contractually prohibit recipients of the data from trying to*  
38 *reidentify the data.*

39 (i) “Designated methods for submitting requests” means a  
40 mailing address, email address, Internet Web page, Internet Web

1 portal, toll-free telephone number, or other applicable contact  
2 information, whereby consumers may submit a request or direction  
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~~ *internet website* and any ~~Internet Web~~ *internet web* page where  
18 personal information is collected. In the case of an online service,  
19 such as a mobile application, homepage means the application’s  
20 platform page or download page, a link within the application,  
21 such as from the application configuration, “About,” “Information,”  
22 or settings page, and any other location that allows consumers to  
23 review the notice required by subdivision (a) of Section 1798.145,  
24 including, 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:~~ *consumer*. Personal information ~~includes,~~  
36 *may include*, but is not limited to, the following if it identifies,  
37 relates to, describes, ~~is capable of being associated with,~~ or could  
38 be reasonably linked, directly or indirectly, with a particular  
39 ~~consumer or household:~~ *consumer*:

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

5 (B) Any categories of personal information described in  
6 subdivision (e) of Section 1798.80.

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

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

12 (E) Biometric information.

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

17 (G) Geolocation data.

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

20 (I) Professional or employment-related information.

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

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

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

1 “Publicly available” does not include consumer information that  
2 is deidentified or aggregate consumer information.

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

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

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

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

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

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

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

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

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

40 (6) Protected from any reidentification attempts.



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

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

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

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

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

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

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

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

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

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

39 (D) The business transfers to a third party the personal  
40 information of a consumer as an asset that is part of a merger,

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

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

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

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

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

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

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

2 (I) Selling the personal information.

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

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

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

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

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

36 (y) “Verifiable consumer request” means a request that is made  
37 by a consumer, by a consumer on behalf of the consumer’s minor  
38 child, or by a natural person or a person registered with the  
39 Secretary of State, authorized by the consumer to act on the  
40 consumer’s behalf, and that the business can reasonably verify,

1 pursuant to regulations adopted by the Attorney General pursuant  
2 to paragraph (7) of subdivision (a) of Section 1798.185 to be the  
3 consumer about whom the business has collected personal  
4 information. A business is not obligated to provide information to  
5 the consumer pursuant to Sections 1798.110 and 1798.115 if the  
6 business cannot verify, pursuant this subdivision and regulations  
7 adopted by the Attorney General pursuant to paragraph (7) of  
8 subdivision (a) of Section 1798.185, that the consumer making  
9 the request is the consumer about whom the business has collected  
10 information or is a person authorized by the consumer to act on  
11 such consumer's behalf.

12 *SEC. 2. Section 1798.145 of the Civil Code is amended to read:*

13 1798.145. (a) The obligations imposed on businesses by this  
14 title shall not restrict a business's ability to:

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

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

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

23 (4) Exercise or defend legal claims.

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

26 (6) Collect or sell a consumer's personal information if every  
27 aspect of that commercial conduct takes place wholly outside of  
28 California. For purposes of this title, commercial conduct takes  
29 place wholly outside of California if the business collected that  
30 information while the consumer was outside of California, no part  
31 of the sale of the consumer's personal information occurred in  
32 California, and no personal information collected while the  
33 consumer was in California is sold. This paragraph shall not permit  
34 a business from storing, including on a device, personal information  
35 about a consumer when the consumer is in California and then  
36 collecting that personal information when the consumer and stored  
37 personal information is outside of California.

38 (b) The obligations imposed on businesses by Sections 1798.110  
39 to 1798.135, inclusive, shall not apply where compliance by the  
40 business with the title would violate an evidentiary privilege under

1 California law and shall not prevent a business from providing the  
2 personal information of a consumer to a person covered by an  
3 evidentiary privilege under California law as part of a privileged  
4 communication.

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

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

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

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

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

38 (d) This title shall not apply to the sale of personal information  
39 to or from a consumer reporting agency if that information is to  
40 be reported in, or used to generate, a consumer report as defined

1 by subdivision (d) of Section 1681a of Title 15 of the United States  
2 Code, and use of that information is limited by the federal Fair  
3 Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

4 (e) This title shall not apply to personal information collected,  
5 processed, sold, or disclosed pursuant to the federal  
6 Gramm-Leach-Bliley Act (Public Law 106-102), and implementing  
7 regulations, or the California Financial Information Privacy Act  
8 (Division 1.4 (commencing with Section 4050) of the Financial  
9 Code). This subdivision shall not apply to Section 1798.150.

10 (f) This title shall not apply to personal information collected,  
11 processed, sold, or disclosed pursuant to the Driver's Privacy  
12 Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). This  
13 subdivision shall not apply to Section 1798.150.

14 (g) Notwithstanding a business's obligations to respond to and  
15 honor consumer rights requests pursuant to this title:

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

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

27 (3) If requests from a consumer are manifestly unfounded or  
28 excessive, in particular because of their repetitive character, a  
29 business may either charge a reasonable fee, taking into account  
30 the administrative costs of providing the information or  
31 communication or taking the action requested, or refuse to act on  
32 the request and notify the consumer of the reason for refusing the  
33 request. The business shall bear the burden of demonstrating that  
34 any verified consumer request is manifestly unfounded or  
35 excessive.

36 (h) A business that discloses personal information to a service  
37 provider shall not be liable under this title if the service provider  
38 receiving the personal information uses it in violation of the  
39 restrictions set forth in the title, provided that, at the time of  
40 disclosing the personal information, the business does not have

1 actual knowledge, or reason to believe, that the service provider  
2 intends to commit such a violation. A service provider shall  
3 likewise not be liable under this title for the obligations of a  
4 business for which it provides services as set forth in this title.

5 (i) This title shall not be construed to require a business to  
6 reidentify or otherwise link information that is not maintained in  
7 ~~a manner that would be considered personal information.~~  
8 *personally identified form.*

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

12 (k) The rights afforded to consumers and the obligations  
13 imposed on any business under this title shall not apply to the  
14 extent that they infringe on the noncommercial activities of a  
15 person or entity described in subdivision (b) of Section 2 of Article  
16 I of the California Constitution.

17 ~~SECTION 1. It is the intent of the Legislature to enact~~  
18 ~~legislation relating to the California Consumer Privacy Act of~~  
19 ~~2018.~~