

AMENDED IN SENATE JULY 3, 2024

AMENDED IN ASSEMBLY APRIL 4, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1949

**Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Lowenthal)**

January 29, 2024

An act to amend Sections 1798.100, 1798.120, 1798.121, and 1798.185-~~of~~ *and to add Section 1798.139 to*, the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1949, as amended, Wicks. California Consumer Privacy Act of 2020: collection of personal information of a consumer less than 18 years of age.

Existing law, the California Consumer Privacy Act of 2020 (CCPA), approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, requires a consumer, as defined, to have various rights with respect to personal information, as defined, that is collected or sold by a business, as defined, including the right to direct a business that sells or shares personal information about a consumer to third parties to not sell or share the consumer's personal information. The act prohibits a business from selling or sharing the personal information of a consumer if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, or the consumer's parent or guardian, as applicable, has affirmatively authorized the sale or sharing of the consumer's personal information.

This bill would remove the condition that *instead prohibit a business from selling or sharing the personal information of a consumer if the business have has* actual knowledge that the consumer is less than 16 years of age and would revise the above-described prohibition to prohibit a business from selling or sharing the personal information of a consumer *over 13 years of age, but* less than 18 years of age, unless the consumer, or the consumer's parent or guardian, as applicable, has affirmatively authorized the sale or sharing of the consumer's personal information, as specified. *The bill would require a business to treat a consumer as under 18 years of age if the consumer, through a platform, technology, or mechanism, transmits a signal indicating that the consumer is less than 18 years of age.*

The CCPA requires the Attorney General to solicit broad public participation and adopt regulations, as specified, to further the purposes of the act, including, but not limited to, regulations to establish technical specifications for an opt-out preference signal that allows the consumer, or the consumer's parent or guardian, to specify that the consumer is less than 13 years of age, or at least 13 years of age and less than 16 years of age. The act requires the California Privacy Protection Agency, as specified, to adopt regulations under the authority assigned to the Attorney General under the act.

This bill would instead require the Attorney General to solicit broad public participation and adopt regulations, as described above, including, but not limited to, regulations to establish technical specifications for an opt-out preference signal that allows the consumer, or the consumer's parent or guardian, to specify that the consumer is less than 13 years of age, or at least 13 years of age and less than 18 years of age. ~~The bill would require the California Privacy Protection Agency, on or before July 1, 2025, to solicit broad public participation and adopt regulations, as specified, to further the purposes of the act, including, but not limited to, issuing regulations to establish technical specifications for an opt-out preference signal that allows the consumer, or the consumer's parent or guardian, to specify that the consumer is less than 13 years of age, or at least 13 years of age and less than 18 years of age, and issuing regulations regarding age verification and when a business must treat a consumer as being less than 13 or 18 years of age for purposes of the CCPA.~~

The California Consumer Privacy Act of 2020 authorizes the Legislature to amend the act to further the purposes and intent of the act by a majority vote of both houses of the Legislature, as specified.

This bill would declare that its provisions further the purposes and intent of the California Consumer Privacy Act of 2020.

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 1798.100 of the Civil Code is amended
2 to read:

3 1798.100. General Duties of Businesses that Collect Personal
4 Information

5 (a) A business that controls the collection of a consumer's
6 personal information shall, at or before the point of collection,
7 inform consumers of the following:

8 (1) The categories of personal information to be collected and
9 the purposes for which the categories of personal information are
10 collected or used and whether that information is sold or shared.
11 A business shall not collect additional categories of personal
12 information or use personal information collected for additional
13 purposes that are incompatible with the disclosed purpose for
14 which the personal information was collected without providing
15 the consumer with notice consistent with this section.

16 (2) If the business collects sensitive personal information, the
17 categories of sensitive personal information to be collected and
18 the purposes for which the categories of sensitive personal
19 information are collected or used, and whether that information is
20 sold or shared. A business shall not collect additional categories
21 of sensitive personal information or use sensitive personal
22 information collected for additional purposes that are incompatible
23 with the disclosed purpose for which the sensitive personal
24 information was collected without providing the consumer with
25 notice consistent with this section.

26 (3) The length of time the business intends to retain each
27 category of personal information, including sensitive personal
28 information, or if that is not possible, the criteria used to determine
29 that period provided that a business shall not retain a consumer's
30 personal information or sensitive personal information for each
31 disclosed purpose for which the personal information was collected
32 for longer than is reasonably necessary for that disclosed purpose.

1 (b) A business that, acting as a third party, controls the collection
2 of personal information about a consumer may satisfy its obligation
3 under subdivision (a) by providing the required information
4 prominently and conspicuously on the homepage of its internet
5 website. In addition, if a business acting as a third party controls
6 the collection of personal information about a consumer on its
7 premises, including in a vehicle, then the business shall, at or before
8 the point of collection, inform consumers as to the categories of
9 personal information to be collected and the purposes for which
10 the categories of personal information are used, and whether that
11 personal information is sold, in a clear and conspicuous manner
12 at the location.

13 (c) A business' collection, use, retention, and sharing of a
14 consumer's personal information shall be reasonably necessary
15 and proportionate to achieve the purposes for which the personal
16 information was collected or processed, or for another disclosed
17 purpose that is compatible with the context in which the personal
18 information was collected, and not further processed in a manner
19 that is incompatible with those purposes.

20 (d) A business that collects a consumer's personal information
21 and that sells that personal information to, or shares it with, a third
22 party or that discloses it to a service provider or contractor for a
23 business purpose shall enter into an agreement with the third party,
24 service provider, or contractor, that:

25 (1) Specifies that the personal information is sold or disclosed
26 by the business only for limited and specified purposes.

27 (2) Obligates the third party, service provider, or contractor to
28 comply with applicable obligations under this title and obligate
29 those persons to provide the same level of privacy protection as
30 is required by this title.

31 (3) Grants the business rights to take reasonable and appropriate
32 steps to help ensure that the third party, service provider, or
33 contractor uses the personal information transferred in a manner
34 consistent with the business' obligations under this title.

35 (4) Requires the third party, service provider, or contractor to
36 notify the business if it makes a determination that it can no longer
37 meet its obligations under this title.

38 (5) Grants the business the right, upon notice, including under
39 paragraph (4), to take reasonable and appropriate steps to stop and
40 remediate unauthorized use of personal information.

1 (e) A business that collects a consumer's personal information
2 shall implement reasonable security procedures and practices
3 appropriate to the nature of the personal information to protect the
4 personal information from unauthorized or illegal access,
5 destruction, use, modification, or disclosure in accordance with
6 Section 1798.81.5.

7 (f) Nothing in this section shall require a business to disclose
8 trade secrets, as specified in regulations adopted pursuant to
9 paragraph (3) of subdivision (a) of Section 1798.185.

10 (g) ~~Notwithstanding any other provision of this section, a~~
11 ~~business shall not collect the personal information of a consumer~~
12 ~~less than 18 years of age, unless the consumer, in the case of a~~
13 ~~consumer at least 13 years of age and less than 18 years of age, or~~
14 ~~the consumer's parent or guardian, in the case of a consumer less~~
15 ~~than 13 years of age, has affirmatively authorized the collection~~
16 ~~of the consumer's personal information.~~

17 (g) (1) *Notwithstanding any other provision of this section, a*
18 *business shall not collect the personal information of a consumer*
19 *if the business has actual knowledge that the consumer is less than*
20 *18 years of age, unless the consumer, in the case of a consumer*
21 *at least 13 years of age and less than 18 years of age, or the*
22 *consumer's parent or guardian, in the case of a consumer less*
23 *than 13 years of age, has affirmatively authorized the collection*
24 *of the consumer's personal information.*

25 (2) *A business that willfully disregards the consumer's age shall*
26 *be deemed to have had actual knowledge of the consumer's age.*

27 SEC. 2. Section 1798.120 of the Civil Code is amended to
28 read:

29 1798.120. Consumers' Right to Opt Out of Sale or Sharing of
30 Personal Information

31 (a) A consumer shall have the right, at any time, to direct a
32 business that sells or shares personal information about the
33 consumer to third parties not to sell or share the consumer's
34 personal information. This right may be referred to as the right to
35 opt-out of sale or sharing.

36 (b) A business that sells consumers' personal information to,
37 or shares it with, third parties shall provide notice to consumers,
38 pursuant to subdivision (a) of Section 1798.135, that this
39 information may be sold or shared and that consumers have the

1 “right to opt-out” of the sale or sharing of their personal
2 information.

3 ~~(e) Notwithstanding subdivision (a), a business shall not sell or~~
4 ~~share the personal information of consumers less than 18 years of~~
5 ~~age, unless the consumer, in the case of consumers at least 13 years~~
6 ~~of age and less than 18 years of age, or the consumer's parent or~~
7 ~~guardian, in the case of consumers who are less than 13 years of~~
8 ~~age, has affirmatively authorized the sale or sharing of the~~
9 ~~consumer's personal information.~~

10 *(c) (1) Notwithstanding subdivision (a), a business shall not*
11 *sell or share the personal information of a consumer if the business*
12 *has actual knowledge that the consumer is less than 18 years of*
13 *age, unless the consumer, in the case of a consumer at least 13*
14 *years of age and less than 18 years of age, or the consumer's*
15 *parent or guardian, in the case of a consumer less than 13 years*
16 *of age, has affirmatively authorized the sale or sharing of the*
17 *consumer's personal information.*

18 *(2) A business that willfully disregards the consumer's age shall*
19 *be deemed to have had actual knowledge of the consumer's age.*

20 (d) A business that has received direction from a consumer not
21 to sell or share the consumer's personal information or, in the case
22 of a minor consumer's personal information has not received
23 consent to sell or share the minor consumer's personal information,
24 shall be prohibited, pursuant to paragraph (4) of subdivision (c)
25 of Section 1798.135, from selling or sharing the consumer's
26 personal information after its receipt of the consumer's direction,
27 unless the consumer subsequently provides consent, for the sale
28 or sharing of the consumer's personal information.

29 SEC. 3. Section 1798.121 of the Civil Code is amended to
30 read:

31 1798.121. Consumers' Right to Limit Use and Disclosure of
32 Sensitive Personal Information and a Minor's Information

33 (a) A consumer shall have the right, at any time, to direct a
34 business that collects sensitive personal information about the
35 consumer to limit its use of the consumer's sensitive personal
36 information to that use which is necessary to perform the services
37 or provide the goods reasonably expected by an average consumer
38 who requests those goods or services, to perform the services set
39 forth in paragraphs (2), (4), (5), and (8) of subdivision (e) of
40 Section 1798.140, and as authorized by regulations adopted

1 pursuant to subparagraph (C) of paragraph (19) of subdivision (a)
2 of Section 1798.185. A business that uses or discloses a consumer's
3 sensitive personal information for purposes other than those
4 specified in this subdivision shall provide notice to consumers,
5 pursuant to subdivision (a) of Section 1798.135, that this
6 information may be used, or disclosed to a service provider or
7 contractor, for additional, specified purposes and that consumers
8 have the right to limit the use or disclosure of their sensitive
9 personal information.

10 (b) A business that has received direction from a consumer not
11 to use or disclose the consumer's sensitive personal information,
12 except as authorized by subdivision (a), shall be prohibited,
13 pursuant to paragraph (4) of subdivision (c) of Section 1798.135,
14 from using or disclosing the consumer's sensitive personal
15 information for any other purpose after its receipt of the consumer's
16 direction unless the consumer subsequently provides consent for
17 the use or disclosure of the consumer's sensitive personal
18 information for additional purposes.

19 (c) A service provider or contractor that assists a business in
20 performing the purposes authorized by subdivision (a) may not
21 use the sensitive personal information after it has received
22 instructions from the business and to the extent it has actual
23 knowledge that the personal information is sensitive personal
24 information for any other purpose. A service provider or contractor
25 is only required to limit its use of sensitive personal information
26 received pursuant to a written contract with the business in response
27 to instructions from the business and only with respect to its
28 relationship with that business.

29 (d) Sensitive personal information that is collected or processed
30 without the purpose of inferring characteristics about a consumer
31 is not subject to this section, as further defined in regulations
32 adopted pursuant to subparagraph (C) of paragraph (19) of
33 subdivision (a) of Section 1798.185, and shall be treated as personal
34 information for purposes of all other sections of this act, including
35 Section 1798.100.

36 (e) (1) ~~Notwithstanding any other provision of this section, a~~
37 ~~business shall not use or disclose the personal information of a~~
38 ~~consumer less than 18 years of age, unless the consumer, in the~~
39 ~~case of a consumer at least 13 years of age and less than 18 years~~
40 ~~of age, or the consumer's parent or guardian, in the case of a~~

1 consumer less than 13 years of age, has affirmatively authorized
2 the use or disclosure of the consumer's personal information.

3 (e) (1) (A) Notwithstanding any other provision of this section,
4 a business shall not use or disclose the personal information of a
5 consumer if the business has actual knowledge that the consumer
6 is less than 18 years of age, unless the consumer, in the case of a
7 consumer at least 13 years of age and less than 18 years of age,
8 or the consumer's parent or guardian, in the case of a consumer
9 less than 13 years of age, has affirmatively authorized the use or
10 disclosure of the consumer's personal information.

11 (B) A business that willfully disregards the consumer's age shall
12 be deemed to have had actual knowledge of the consumer's age.

13 (2) This subdivision does not prohibit short-term, transient use
14 of personal information that is necessary and proportional to the
15 purpose for which it is used, and is not used, disclosed, or retained
16 for any other purpose, including to build a profile regarding the
17 consumer.

18 SEC. 4. Section 1798.139 is added to the Civil Code, to read:

19 1798.139. A business shall treat a consumer as under 18 years
20 of age if the consumer, through a platform, technology, or
21 mechanism, transmits a signal indicating that the consumer is less
22 than 18 years of age.

23 SEC. 4.

24 SEC. 5. Section 1798.185 of the Civil Code is amended to read:

25 1798.185. Regulations

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

30 (1) Updating or adding categories of personal information to
31 those enumerated in subdivision (c) of Section 1798.130 and
32 subdivision (v) of Section 1798.140, and updating or adding
33 categories of sensitive personal information to those enumerated
34 in subdivision (ae) of Section 1798.140 in order to address changes
35 in technology, data collection practices, obstacles to
36 implementation, and privacy concerns.

37 (2) Updating as needed the definitions of "deidentified" and
38 "unique identifier" to address changes in technology, data
39 collection, obstacles to implementation, and privacy concerns, and
40 adding, modifying, or deleting categories to the definition of

1 designated methods for submitting requests to facilitate a
2 consumer's ability to obtain information from a business pursuant
3 to Section 1798.130. The authority to update the definition of
4 "deidentified" shall not apply to deidentification standards set forth
5 in Section 164.514 of Title 45 of the Code of Federal Regulations,
6 where such information previously was "protected health
7 information" as defined in Section 160.103 of Title 45 of the Code
8 of Federal Regulations.

9 (3) Establishing any exceptions necessary to comply with state
10 or federal law, including, but not limited to, those relating to trade
11 secrets and intellectual property rights, within one year of passage
12 of this title and as needed thereafter, with the intention that trade
13 secrets should not be disclosed in response to a verifiable consumer
14 request.

15 (4) Establishing rules and procedures for the following:

16 (A) To facilitate and govern the submission of a request by a
17 consumer to opt out of the sale or sharing of personal information
18 pursuant to Section 1798.120 and to limit the use of a consumer's
19 sensitive personal information pursuant to Section 1798.121 to
20 ensure that consumers have the ability to exercise their choices
21 without undue burden and to prevent business from engaging in
22 deceptive or harassing conduct, including in retaliation against
23 consumers for exercising their rights, while allowing businesses
24 to inform consumers of the consequences of their decision to opt
25 out of the sale or sharing of their personal information or to limit
26 the use of their sensitive personal information.

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

29 (C) For the development and use of a recognizable and uniform
30 opt-out logo or button by all businesses to promote consumer
31 awareness of the opportunity to opt out of the sale of personal
32 information.

33 (5) Adjusting the monetary thresholds, in January of every
34 odd-numbered year to reflect any increase in the Consumer Price
35 Index, in: subparagraph (A) of paragraph (1) of subdivision (d) of
36 Section 1798.140; subparagraph (A) of paragraph (1) of subdivision
37 (a) of Section 1798.150; subdivision (a) of Section 1798.155;
38 Section 1798.199.25; and subdivision (a) of Section 1798.199.90.

39 (6) Establishing rules, procedures, and any exceptions necessary
40 to ensure that the notices and information that businesses are

1 required to provide pursuant to this title are provided in a manner
2 that may be easily understood by the average consumer, are
3 accessible to consumers with disabilities, and are available in the
4 language primarily used to interact with the consumer, including
5 establishing rules and guidelines regarding financial incentives
6 within one year of passage of this title and as needed thereafter.

7 (7) Establishing rules and procedures to further the purposes of
8 Sections 1798.105, 1798.106, 1798.110, and 1798.115 and to
9 facilitate a consumer's or the consumer's authorized agent's ability
10 to delete personal information, correct inaccurate personal
11 information pursuant to Section 1798.106, or obtain information
12 pursuant to Section 1798.130, with the goal of minimizing the
13 administrative burden on consumers, taking into account available
14 technology, security concerns, and the burden on the business, to
15 govern a business's determination that a request for information
16 received from a consumer is a verifiable consumer request,
17 including treating a request submitted through a password-protected
18 account maintained by the consumer with the business while the
19 consumer is logged into the account as a verifiable consumer
20 request and providing a mechanism for a consumer who does not
21 maintain an account with the business to request information
22 through the business's authentication of the consumer's identity,
23 within one year of passage of this title and as needed thereafter.

24 (8) Establishing how often, and under what circumstances, a
25 consumer may request a correction pursuant to Section 1798.106,
26 including standards governing the following:

27 (A) How a business responds to a request for correction,
28 including exceptions for requests to which a response is impossible
29 or would involve disproportionate effort, and requests for
30 correction of accurate information.

31 (B) How concerns regarding the accuracy of the information
32 may be resolved.

33 (C) The steps a business may take to prevent fraud.

34 (D) If a business rejects a request to correct personal information
35 collected and analyzed concerning a consumer's health, the right
36 of a consumer to provide a written addendum to the business with
37 respect to any item or statement regarding any such personal
38 information that the consumer believes to be incomplete or
39 incorrect. The addendum shall be limited to 250 words per alleged
40 incomplete or incorrect item and shall clearly indicate in writing

1 that the consumer requests the addendum to be made a part of the
2 consumer's record.

3 (9) Establishing the standard to govern a business's
4 determination, pursuant to subparagraph (B) of paragraph (2) of
5 subdivision (a) of Section 1798.130, that providing information
6 beyond the 12-month period in a response to a verifiable consumer
7 request is impossible or would involve a disproportionate effort.

8 (10) Issuing regulations further defining and adding to the
9 business purposes, including other notified purposes, for which
10 businesses, service providers, and contractors may use consumers'
11 personal information consistent with consumers' expectations, and
12 further defining the business purposes for which service providers
13 and contractors may combine consumers' personal information
14 obtained from different sources, except as provided for in paragraph
15 (6) of subdivision (e) of Section 1798.140.

16 (11) Issuing regulations identifying those business purposes,
17 including other notified purposes, for which service providers and
18 contractors may use consumers' personal information received
19 pursuant to a written contract with a business, for the service
20 provider or contractor's own business purposes, with the goal of
21 maximizing consumer privacy.

22 (12) Issuing regulations to further define "intentionally
23 interacts," with the goal of maximizing consumer privacy.

24 (13) Issuing regulations to further define "precise geolocation,"
25 including if the size defined is not sufficient to protect consumer
26 privacy in sparsely populated areas or when the personal
27 information is used for normal operational purposes, including
28 billing.

29 (14) Issuing regulations to define the term "specific pieces of
30 information obtained from the consumer" with the goal of
31 maximizing a consumer's right to access relevant personal
32 information while minimizing the delivery of information to a
33 consumer that would not be useful to the consumer, including
34 system log information and other technical data. For delivery of
35 the most sensitive personal information, the regulations may require
36 a higher standard of authentication provided that the agency shall
37 monitor the impact of the higher standard on the right of consumers
38 to obtain their personal information to ensure that the requirements
39 of verification do not result in the unreasonable denial of verifiable
40 consumer requests.

1 (15) Issuing regulations requiring businesses whose processing
2 of consumers' personal information presents significant risk to
3 consumers' privacy or security, to:

4 (A) Perform a cybersecurity audit on an annual basis, including
5 defining the scope of the audit and establishing a process to ensure
6 that audits are thorough and independent. The factors to be
7 considered in determining when processing may result in
8 significant risk to the security of personal information shall include
9 the size and complexity of the business and the nature and scope
10 of processing activities.

11 (B) Submit to the California Privacy Protection Agency on a
12 regular basis a risk assessment with respect to their processing of
13 personal information, including whether the processing involves
14 sensitive personal information, and identifying and weighing the
15 benefits resulting from the processing to the business, the
16 consumer, other stakeholders, and the public, against the potential
17 risks to the rights of the consumer associated with that processing,
18 with the goal of restricting or prohibiting the processing if the risks
19 to privacy of the consumer outweigh the benefits resulting from
20 processing to the consumer, the business, other stakeholders, and
21 the public. Nothing in this section shall require a business to
22 divulge trade secrets.

23 (16) Issuing regulations governing access and opt-out rights
24 with respect to businesses' use of automated decisionmaking
25 technology, including profiling and requiring businesses' response
26 to access requests to include meaningful information about the
27 logic involved in those decisionmaking processes, as well as a
28 description of the likely outcome of the process with respect to
29 the consumer.

30 (17) Issuing regulations to further define a "law enforcement
31 agency-approved investigation" for purposes of the exception in
32 subparagraph (B) of paragraph (1) of subdivision (a) of Section
33 1798.145.

34 (18) Issuing regulations to define the scope and process for the
35 exercise of the agency's audit authority, to establish criteria for
36 selection of persons to audit, and to protect consumers' personal
37 information from disclosure to an auditor in the absence of a court
38 order, warrant, or subpoena.

39 (19) (A) Issuing regulations to define the requirements and
40 technical specifications for an opt-out preference signal sent by a

1 platform, technology, or mechanism, to indicate a consumer's
2 intent to opt out of the sale or sharing of the consumer's personal
3 information and to limit the use or disclosure of the consumer's
4 sensitive personal information. The requirements and specifications
5 for the opt-out preference signal should be updated from time to
6 time to reflect the means by which consumers interact with
7 businesses, and should:

8 (i) Ensure that the manufacturer of a platform or browser or
9 device that sends the opt-out preference signal cannot unfairly
10 disadvantage another business.

11 (ii) Ensure that the opt-out preference signal is
12 consumer-friendly, clearly described, and easy to use by an average
13 consumer and does not require that the consumer provide additional
14 information beyond what is necessary.

15 (iii) Clearly represent a consumer's intent and be free of defaults
16 constraining or presupposing that intent.

17 (iv) Ensure that the opt-out preference signal does not conflict
18 with other commonly used privacy settings or tools that consumers
19 may employ.

20 (v) Provide a mechanism for the consumer to selectively consent
21 to a business's sale of the consumer's personal information, or the
22 use or disclosure of the consumer's sensitive personal information,
23 without affecting the consumer's preferences with respect to other
24 businesses or disabling the opt-out preference signal globally.

25 (vi) State that in the case of a page or setting view that the
26 consumer accesses to set the opt-out preference signal, the
27 consumer should see up to three choices, including:

28 (I) Global opt out from sale and sharing of personal information,
29 including a direction to limit the use of sensitive personal
30 information.

31 (II) Choice to "Limit the Use of My Sensitive Personal
32 Information."

33 (III) Choice titled "Do Not Sell/Do Not Share My Personal
34 Information for Cross-Context Behavioral Advertising."

35 (B) Issuing regulations to establish technical specifications for
36 an opt-out preference signal that allows the consumer, or the
37 consumer's parent or guardian, to specify that the consumer is less
38 than 13 years of age, or at least 13 years of age and less than 18
39 years of age.

1 (C) Issuing regulations, with the goal of strengthening consumer
2 privacy while considering the legitimate operational interests of
3 businesses, to govern the use or disclosure of a consumer's
4 sensitive personal information, notwithstanding the consumer's
5 direction to limit the use or disclosure of the consumer's sensitive
6 personal information, including:

7 (i) Determining any additional purposes for which a business
8 may use or disclose a consumer's sensitive personal information.

9 (ii) Determining the scope of activities permitted under
10 paragraph (8) of subdivision (e) of Section 1798.140, as authorized
11 by subdivision (a) of Section 1798.121, to ensure that the activities
12 do not involve health-related research.

13 (iii) Ensuring the functionality of the business's operations.

14 (iv) Ensuring that the exemption in subdivision (d) of Section
15 1798.121 for sensitive personal information applies to information
16 that is collected or processed incidentally, or without the purpose
17 of inferring characteristics about a consumer, while ensuring that
18 businesses do not use the exemption for the purpose of evading
19 consumers' rights to limit the use and disclosure of their sensitive
20 personal information under Section 1798.121.

21 (20) Issuing regulations to govern how a business that has
22 elected to comply with subdivision (b) of Section 1798.135
23 responds to the opt-out preference signal and provides consumers
24 with the opportunity subsequently to consent to the sale or sharing
25 of their personal information or the use and disclosure of their
26 sensitive personal information for purposes in addition to those
27 authorized by subdivision (a) of Section 1798.121. The regulations
28 should:

29 (A) Strive to promote competition and consumer choice and be
30 technology neutral.

31 (B) Ensure that the business does not respond to an opt-out
32 preference signal by:

33 (i) Intentionally degrading the functionality of the consumer
34 experience.

35 (ii) Charging the consumer a fee in response to the consumer's
36 opt-out preferences.

37 (iii) Making any products or services not function properly or
38 fully for the consumer, as compared to consumers who do not use
39 the opt-out preference signal.

1 (iv) Attempting to coerce the consumer to opt in to the sale or
2 sharing of the consumer's personal information, or the use or
3 disclosure of the consumer's sensitive personal information, by
4 stating or implying that the use of the opt-out preference signal
5 will adversely affect the consumer as compared to consumers who
6 do not use the opt-out preference signal, including stating or
7 implying that the consumer will not be able to use the business's
8 products or services or that those products or services may not
9 function properly or fully.

10 (v) Displaying any notification or pop-up in response to the
11 consumer's opt-out preference signal.

12 (C) Ensure that any link to a web page or its supporting content
13 that allows the consumer to consent to opt in:

14 (i) Is not part of a popup, notice, banner, or other intrusive
15 design that obscures any part of the web page the consumer
16 intended to visit from full view or that interferes with or impedes
17 in any way the consumer's experience visiting or browsing the
18 web page or website the consumer intended to visit.

19 (ii) Does not require or imply that the consumer must click the
20 link to receive full functionality of any products or services,
21 including the website.

22 (iii) Does not make use of any dark patterns.

23 (iv) Applies only to the business with which the consumer
24 intends to interact.

25 (D) Strive to curb coercive or deceptive practices in response
26 to an opt-out preference signal but should not unduly restrict
27 businesses that are trying in good faith to comply with Section
28 1798.135.

29 (21) Review existing Insurance Code provisions and regulations
30 relating to consumer privacy, except those relating to insurance
31 rates or pricing, to determine whether any provisions of the
32 Insurance Code provide greater protection to consumers than the
33 provisions of this title. Upon completing its review, the agency
34 shall adopt a regulation that applies only the more protective
35 provisions of this title to insurance companies. For the purpose of
36 clarity, the Insurance Commissioner shall have jurisdiction over
37 insurance rates and pricing.

38 (22) Harmonizing the regulations governing opt-out
39 mechanisms, notices to consumers, and other operational

1 mechanisms in this title to promote clarity and the functionality
2 of this title for consumers.

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

5 (c) The Attorney General shall not bring an enforcement action
6 under this title until six months after the publication of the final
7 regulations issued pursuant to this section or July 1, 2020,
8 whichever is sooner.

9 (d) Notwithstanding subdivision (a), the timeline for adopting
10 final regulations required by the act adding this subdivision shall
11 be July 1, 2022. Beginning the later of July 1, 2021, or six months
12 after the agency provides notice to the Attorney General that it is
13 prepared to begin rulemaking under this title, the authority assigned
14 to the Attorney General to adopt regulations under this section
15 shall be exercised by the California Privacy Protection Agency.
16 Notwithstanding any other law, civil and administrative
17 enforcement of the provisions of law added or amended by this
18 act shall not commence until July 1, 2023, and shall only apply to
19 violations occurring on or after that date. Enforcement of provisions
20 of law contained in the California Consumer Privacy Act of 2018
21 amended by this act shall remain in effect and shall be enforceable
22 until the same provisions of this act become enforceable.

23 (e) ~~On or before July 1, 2025, the California Privacy Protection~~
24 ~~Agency shall solicit broad public participation and adopt~~
25 ~~regulations to further the purposes of this title, including, but not~~
26 ~~limited to:~~

27 (1) ~~Issuing regulations to establish technical specifications for~~
28 ~~an opt-out preference signal that allows the consumer, or the~~
29 ~~consumer's parent or guardian, to specify that the consumer is less~~
30 ~~than 13 years of age, or at least 13 years of age and less than 18~~
31 ~~years of age.~~

32 (2) ~~Issuing regulations regarding age verification and when a~~
33 ~~business must treat a consumer as being less than 13 or 18 years~~
34 ~~of age for purposes of this title.~~

35 SEC. 5.

36 SEC. 6. The Legislature finds and declares that this act furthers
37 the purposes and intent of The California Privacy Rights Act of
38 2020.