

AMENDED IN ASSEMBLY AUGUST 27, 2024

AMENDED IN ASSEMBLY AUGUST 22, 2024

AMENDED IN ASSEMBLY JUNE 26, 2024

AMENDED IN SENATE MARCH 18, 2024

SENATE BILL

No. 1223

Introduced by Senator Becker

February 15, 2024

An act to amend Section 1798.140 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1223, as amended, Becker. Consumer privacy: sensitive personal information: neural data.

The California Consumer Privacy Act of 2018 (CCPA) grants to a consumer various rights with respect to personal information, as defined, that is collected by a business, as defined, including the right to direct a business that collects sensitive personal information about the consumer to limit its use of the consumer's sensitive personal information to that use which is necessary to perform the services or provide the goods reasonably expected by an average consumer who requests those goods or services, to perform certain other services, and as authorized by certain regulations. The CCPA defines "sensitive personal information" to mean, among other things, the processing of biometric information, as defined, for the purpose of uniquely identifying a consumer. The California Privacy Rights Act of 2020, approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA.

This bill would define “sensitive personal information,” for purposes of the CCPA, to additionally include a consumer’s neural data, and would define “neural data” to mean information that is generated by measuring the activity of a consumer’s central or peripheral nervous system, and that is not inferred from nonneural information.

The California Privacy Rights 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 Privacy Rights Act of 2020.

This bill would incorporate additional changes to Section 1798.140 of the Civil Code proposed by AB 1008 to be operative only if this bill and AB 1008 are enacted and this bill is enacted last.

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 1798.140 of the Civil Code, as amended~~
2 ~~by Chapter 121 of the Statutes of 2024, is amended to read:~~

3 ~~SECTION 1. Section 1798.140 of the Civil Code, as amended~~
4 ~~by Section 5 of Chapter 121 of the Statutes of 2024, is amended~~
5 ~~to read:~~

6 1798.140. Definitions

7 For purposes of this title:

8 (a) “Advertising and marketing” means a communication by a
9 business or a person acting on the business’ behalf in any medium
10 intended to induce a consumer to obtain goods, services, or
11 employment.

12 (b) “Aggregate consumer information” means information that
13 relates to a group or category of consumers, from which individual
14 consumer identities have been removed, that is not linked or
15 reasonably linkable to any consumer or household, including via
16 a device. “Aggregate consumer information” does not mean one
17 or more individual consumer records that have been deidentified.

18 (c) “Biometric information” means an individual’s physiological,
19 biological, or behavioral characteristics, including information
20 pertaining to an individual’s deoxyribonucleic acid (DNA), that
21 is used or is intended to be used singly or in combination with each
22 other or with other identifying data, to establish individual identity.

1 Biometric information includes, but is not limited to, imagery of
2 the iris, retina, fingerprint, face, hand, palm, vein patterns, and
3 voice recordings, from which an identifier template, such as a
4 faceprint, a minutiae template, or a voiceprint, can be extracted,
5 and keystroke patterns or rhythms, gait patterns or rhythms, and
6 sleep, health, or exercise data that contain identifying information.

7 (d) “Business” means:

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

17 (A) As of January 1 of the calendar year, had annual gross
18 revenues in excess of twenty-five million dollars (\$25,000,000)
19 in the preceding calendar year, as adjusted pursuant to subdivision
20 (d) of Section 1798.199.95.

21 (B) Alone or in combination, annually buys, sells, or shares the
22 personal information of 100,000 or more consumers or households.

23 (C) Derives 50 percent or more of its annual revenues from
24 selling or sharing consumers’ personal information.

25 (2) Any entity that controls or is controlled by a business, as
26 defined in paragraph (1), and that shares common branding with
27 the business and with whom the business shares consumers’
28 personal information. “Control” or “controlled” means ownership
29 of, or the power to vote, more than 50 percent of the outstanding
30 shares of any class of voting security of a business; control in any
31 manner over the election of a majority of the directors, or of
32 individuals exercising similar functions; or the power to exercise
33 a controlling influence over the management of a company.
34 “Common branding” means a shared name, servicemark, or
35 trademark that the average consumer would understand that two
36 or more entities are commonly owned.

37 (3) A joint venture or partnership composed of businesses in
38 which each business has at least a 40 percent interest. For purposes
39 of this title, the joint venture or partnership and each business that
40 composes the joint venture or partnership shall separately be

1 considered a single business, except that personal information in
2 the possession of each business and disclosed to the joint venture
3 or partnership shall not be shared with the other business.

4 (4) A person that does business in California, that is not covered
5 by paragraph (1), (2), or (3), and that voluntarily certifies to the
6 California Privacy Protection Agency that it is in compliance with,
7 and agrees to be bound by, this title.

8 (e) “Business purpose” means the use of personal information
9 for the business’ operational purposes, or other notified purposes,
10 or for the service provider or contractor’s operational purposes,
11 as defined by regulations adopted pursuant to paragraph (10) of
12 subdivision (a) of Section 1798.185, provided that the use of
13 personal information shall be reasonably necessary and
14 proportionate to achieve the purpose for which the personal
15 information was collected or processed or for another purpose that
16 is compatible with the context in which the personal information
17 was collected. Business purposes are:

18 (1) Auditing related to counting ad impressions to unique
19 visitors, verifying positioning and quality of ad impressions, and
20 auditing compliance with this specification and other standards.

21 (2) Helping to ensure security and integrity to the extent the use
22 of the consumer’s personal information is reasonably necessary
23 and proportionate for these purposes.

24 (3) Debugging to identify and repair errors that impair existing
25 intended functionality.

26 (4) Short-term, transient use, including, but not limited to,
27 nonpersonalized advertising shown as part of a consumer’s current
28 interaction with the business, provided that the consumer’s personal
29 information is not disclosed to another third party and is not used
30 to build a profile about the consumer or otherwise alter the
31 consumer’s experience outside the current interaction with the
32 business.

33 (5) Performing services on behalf of the business, including
34 maintaining or servicing accounts, providing customer service,
35 processing or fulfilling orders and transactions, verifying customer
36 information, processing payments, providing financing, providing
37 analytic services, providing storage, or providing similar services
38 on behalf of the business.

39 (6) Providing advertising and marketing services, except for
40 cross-context behavioral advertising, to the consumer provided

1 that, for the purpose of advertising and marketing, a service
2 provider or contractor shall not combine the personal information
3 of opted-out consumers that the service provider or contractor
4 receives from, or on behalf of, the business with personal
5 information that the service provider or contractor receives from,
6 or on behalf of, another person or persons or collects from its own
7 interaction with consumers.

8 (7) Undertaking internal research for technological development
9 and demonstration.

10 (8) Undertaking activities to verify or maintain the quality or
11 safety of a service or device that is owned, manufactured,
12 manufactured for, or controlled by the business, and to improve,
13 upgrade, or enhance the service or device that is owned,
14 manufactured, manufactured for, or controlled by the business.

15 (f) “Collects,” “collected,” or “collection” means buying,
16 renting, gathering, obtaining, receiving, or accessing any personal
17 information pertaining to a consumer by any means. This includes
18 receiving information from the consumer, either actively or
19 passively, or by observing the consumer’s behavior.

20 (g) “Commercial purposes” means to advance a person’s
21 commercial or economic interests, such as by inducing another
22 person to buy, rent, lease, join, subscribe to, provide, or exchange
23 products, goods, property, information, or services, or enabling or
24 effecting, directly or indirectly, a commercial transaction.

25 (h) “Consent” means any freely given, specific, informed, and
26 unambiguous indication of the consumer’s wishes by which the
27 consumer, or the consumer’s legal guardian, a person who has
28 power of attorney, or a person acting as a conservator for the
29 consumer, including by a statement or by a clear affirmative action,
30 signifies agreement to the processing of personal information
31 relating to the consumer for a narrowly defined particular purpose.
32 Acceptance of a general or broad terms of use, or similar document,
33 that contains descriptions of personal information processing along
34 with other, unrelated information, does not constitute consent.
35 Hovering over, muting, pausing, or closing a given piece of content
36 does not constitute consent. Likewise, agreement obtained through
37 use of dark patterns does not constitute consent.

38 (i) “Consumer” means a natural person who is a California
39 resident, as defined in Section 17014 of Title 18 of the California

1 Code of Regulations, as that section read on September 1, 2017,
2 however identified, including by any unique identifier.

3 (j) (1) “Contractor” means a person to whom the business makes
4 available a consumer’s personal information for a business purpose,
5 pursuant to a written contract with the business, provided that the
6 contract:

7 (A) Prohibits the contractor from:

8 (i) Selling or sharing the personal information.

9 (ii) Retaining, using, or disclosing the personal information for
10 any purpose other than for the business purposes specified in the
11 contract, including retaining, using, or disclosing the personal
12 information for a commercial purpose other than the business
13 purposes specified in the contract, or as otherwise permitted by
14 this title.

15 (iii) Retaining, using, or disclosing the information outside of
16 the direct business relationship between the contractor and the
17 business.

18 (iv) Combining the personal information that the contractor
19 receives pursuant to a written contract with the business with
20 personal information that it receives from or on behalf of another
21 person or persons, or collects from its own interaction with the
22 consumer, provided that the contractor may combine personal
23 information to perform any business purpose as defined in
24 regulations adopted pursuant to paragraph (9) of subdivision (a)
25 of Section 1798.185, except as provided for in paragraph (6) of
26 subdivision (e) and in regulations adopted by the California Privacy
27 Protection Agency.

28 (B) Includes a certification made by the contractor that the
29 contractor understands the restrictions in subparagraph (A) and
30 will comply with them.

31 (C) Permits, subject to agreement with the contractor, the
32 business to monitor the contractor’s compliance with the contract
33 through measures, including, but not limited to, ongoing manual
34 reviews and automated scans and regular assessments, audits, or
35 other technical and operational testing at least once every 12
36 months.

37 (2) If a contractor engages any other person to assist it in
38 processing personal information for a business purpose on behalf
39 of the business, or if any other person engaged by the contractor
40 engages another person to assist in processing personal information

1 for that business purpose, it shall notify the business of that
2 engagement, and the engagement shall be pursuant to a written
3 contract binding the other person to observe all the requirements
4 set forth in paragraph (1).

5 (k) “Cross-context behavioral advertising” means the targeting
6 of advertising to a consumer based on the consumer’s personal
7 information obtained from the consumer’s activity across
8 businesses, distinctly branded internet websites, applications, or
9 services, other than the business, distinctly branded internet
10 website, application, or service with which the consumer
11 intentionally interacts.

12 (l) “Dark pattern” means a user interface designed or
13 manipulated with the substantial effect of subverting or impairing
14 user autonomy, decisionmaking, or choice, as further defined by
15 regulation.

16 (m) “Deidentified” means information that cannot reasonably
17 be used to infer information about, or otherwise be linked to, a
18 particular consumer provided that the business that possesses the
19 information:

20 (1) Takes reasonable measures to ensure that the information
21 cannot be associated with a consumer or household.

22 (2) Publicly commits to maintain and use the information in
23 deidentified form and not to attempt to reidentify the information,
24 except that the business may attempt to reidentify the information
25 solely for the purpose of determining whether its deidentification
26 processes satisfy the requirements of this subdivision.

27 (3) Contractually obligates any recipients of the information to
28 comply with all provisions of this subdivision.

29 (n) “Designated methods for submitting requests” means a
30 mailing address, email address, internet web page, internet web
31 portal, toll-free telephone number, or other applicable contact
32 information, whereby consumers may submit a request or direction
33 under this title, and any new, consumer-friendly means of
34 contacting a business, as approved by the Attorney General
35 pursuant to Section 1798.185.

36 (o) “Device” means any physical object that is capable of
37 connecting to the internet, directly or indirectly, or to another
38 device.

39 (p) “Homepage” means the introductory page of an internet
40 website and any internet web page where personal information is

1 collected. In the case of an online service, such as a mobile
2 application, homepage means the application's platform page or
3 download page, a link within the application, such as from the
4 application configuration, "About," "Information," or settings
5 page, and any other location that allows consumers to review the
6 notices required by this title, including, but not limited to, before
7 downloading the application.

8 (q) "Household" means a group, however identified, of
9 consumers who cohabitiate with one another at the same residential
10 address and share use of common devices or services.

11 (r) "Infer" or "inference" means the derivation of information,
12 data, assumptions, or conclusions from facts, evidence, or another
13 source of information or data.

14 (s) "Intentionally interacts" means when the consumer intends
15 to interact with a person, or disclose personal information to a
16 person, via one or more deliberate interactions, including visiting
17 the person's internet website or purchasing a good or service from
18 the person. Hovering over, muting, pausing, or closing a given
19 piece of content does not constitute a consumer's intent to interact
20 with a person.

21 (t) "Nonpersonalized advertising" means advertising and
22 marketing that is based solely on a consumer's personal
23 information derived from the consumer's current interaction with
24 the business with the exception of the consumer's precise
25 geolocation.

26 (u) "Person" means an individual, proprietorship, firm,
27 partnership, joint venture, syndicate, business trust, company,
28 corporation, limited liability company, association, committee,
29 and any other organization or group of persons acting in concert.

30 (v) (1) "Personal information" means information that identifies,
31 relates to, describes, is reasonably capable of being associated
32 with, or could reasonably be linked, directly or indirectly, with a
33 particular consumer or household. Personal information includes,
34 but is not limited to, the following if it identifies, relates to,
35 describes, is reasonably capable of being associated with, or could
36 be reasonably linked, directly or indirectly, with a particular
37 consumer or household:

38 (A) Identifiers such as a real name, alias, postal address, unique
39 personal identifier, online identifier, Internet Protocol address,

1 email address, account name, social security number, driver's
2 license number, passport number, or other similar identifiers.
3 (B) Any personal information described in subdivision (e) of
4 Section 1798.80.
5 (C) Characteristics of protected classifications under California
6 or federal law.
7 (D) Commercial information, including records of personal
8 property, products or services purchased, obtained, or considered,
9 or other purchasing or consuming histories or tendencies.
10 (E) Biometric information.
11 (F) Internet or other electronic network activity information,
12 including, but not limited to, browsing history, search history, and
13 information regarding a consumer's interaction with an internet
14 website application, or advertisement.
15 (G) Geolocation data.
16 (H) Audio, electronic, visual, thermal, olfactory, or similar
17 information.
18 (I) Professional or employment-related information.
19 (J) Education information, defined as information that is not
20 publicly available personally identifiable information as defined
21 in the Family Educational Rights and Privacy Act (20 U.S.C. Sec.
22 1232g; 34 C.F.R. Part 99).
23 (K) Inferences drawn from any of the information identified in
24 this subdivision to create a profile about a consumer reflecting the
25 consumer's preferences, characteristics, psychological trends,
26 predispositions, behavior, attitudes, intelligence, abilities, and
27 aptitudes.
28 (L) Sensitive personal information.
29 (2) "Personal information" does not include publicly available
30 information or lawfully obtained, truthful information that is a
31 matter of public concern. For purposes of this paragraph, "publicly
32 available" means: information that is lawfully made available from
33 federal, state, or local government records, or information that a
34 business has a reasonable basis to believe is lawfully made
35 available to the general public by the consumer or from widely
36 distributed media; or information made available by a person to
37 whom the consumer has disclosed the information if the consumer
38 has not restricted the information to a specific audience. "Publicly
39 available" does not mean biometric information collected by a
40 business about a consumer without the consumer's knowledge.

1 (3) “Personal information” does not include consumer
2 information that is deidentified or aggregate consumer information.

3 (w) “Precise geolocation” means any data that is derived from
4 a device and that is used or intended to be used to locate a
5 consumer within a geographic area that is equal to or less than the
6 area of a circle with a radius of 1,850 feet, except as prescribed
7 by regulations.

8 (x) “Probabilistic identifier” means the identification of a
9 consumer or a consumer’s device to a degree of certainty of more
10 probable than not based on any categories of personal information
11 included in, or similar to, the categories enumerated in the
12 definition of personal information.

13 (y) “Processing” means any operation or set of operations that
14 are performed on personal information or on sets of personal
15 information, whether or not by automated means.

16 (z) “Profiling” means any form of automated processing of
17 personal information, as further defined by regulations pursuant
18 to paragraph (15) of subdivision (a) of Section 1798.185, to
19 evaluate certain personal aspects relating to a natural person and
20 in particular to analyze or predict aspects concerning that natural
21 person’s performance at work, economic situation, health, personal
22 preferences, interests, reliability, behavior, location, or movements.

23 (aa) “Pseudonymize” or “Pseudonymization” means the
24 processing of personal information in a manner that renders the
25 personal information no longer attributable to a specific consumer
26 without the use of additional information, provided that the
27 additional information is kept separately and is subject to technical
28 and organizational measures to ensure that the personal information
29 is not attributed to an identified or identifiable consumer.

30 (ab) “Research” means scientific analysis, systematic study,
31 and observation, including basic research or applied research that
32 is designed to develop or contribute to public or scientific
33 knowledge and that adheres or otherwise conforms to all other
34 applicable ethics and privacy laws, including, but not limited to,
35 studies conducted in the public interest in the area of public health.
36 Research with personal information that may have been collected
37 from a consumer in the course of the consumer’s interactions with
38 a business’ service or device for other purposes shall be:

39 (1) Compatible with the business purpose for which the personal
40 information was collected.

1 (2) Subsequently pseudonymized and deidentified, or
2 deidentified and in the aggregate, such that the information cannot
3 reasonably identify, relate to, describe, be capable of being
4 associated with, or be linked, directly or indirectly, to a particular
5 consumer, by a business.

6 (3) Made subject to technical safeguards that prohibit
7 reidentification of the consumer to whom the information may
8 pertain, other than as needed to support the research.

9 (4) Subject to business processes that specifically prohibit
10 reidentification of the information, other than as needed to support
11 the research.

12 (5) Made subject to business processes to prevent inadvertent
13 release of deidentified information.

14 (6) Protected from any reidentification attempts.

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

17 (8) Subjected by the business conducting the research to
18 additional security controls that limit access to the research data
19 to only those individuals as are necessary to carry out the research
20 purpose.

21 (ac) “Security and integrity” means the ability of:

22 (1) Networks or information systems to detect security incidents
23 that compromise the availability, authenticity, integrity, and
24 confidentiality of stored or transmitted personal information.

25 (2) Businesses to detect security incidents, resist malicious,
26 deceptive, fraudulent, or illegal actions and to help prosecute those
27 responsible for those actions.

28 (3) Businesses to ensure the physical safety of natural persons.

29 (ad) (1) “Sell,” “selling,” “sale,” or “sold,” means selling,
30 renting, releasing, disclosing, disseminating, making available,
31 transferring, or otherwise communicating orally, in writing, or by
32 electronic or other means, a consumer’s personal information by
33 the business to a third party for monetary or other valuable
34 consideration.

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

37 (A) A consumer uses or directs the business to intentionally:

38 (i) Disclose personal information.

39 (ii) Interact with one or more third parties.

1 (B) The business uses or shares an identifier for a consumer
2 who has opted out of the sale of the consumer's personal
3 information or limited the use of the consumer's sensitive personal
4 information for the purposes of alerting persons that the consumer
5 has opted out of the sale of the consumer's personal information
6 or limited the use of the consumer's sensitive personal information.

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

24 (ae) "Sensitive personal information" means:

25 (1) Personal information that reveals:

26 (A) A consumer's social security, driver's license, state
27 identification card, or passport number.

28 (B) A consumer's account log-in, financial account, debit card,
29 or credit card number in combination with any required security
30 or access code, password, or credentials allowing access to an
31 account.

32 (C) A consumer's precise geolocation.

33 (D) A consumer's racial or ethnic origin, citizenship or
34 immigration status, religious or philosophical beliefs, or union
35 membership.

36 (E) The contents of a consumer's mail, email, and text messages
37 unless the business is the intended recipient of the communication.

38 (F) A consumer's genetic data.

39 (G) (i) A consumer's neural data.

1 (ii) “Neural data” means information that is generated by
2 measuring the activity of a consumer’s central or peripheral nervous
3 system, and that is not inferred from nonneural information.

4 (2) (A) The processing of biometric information for the purpose
5 of uniquely identifying a consumer.

6 (B) Personal information collected and analyzed concerning a
7 consumer’s health.

8 (C) Personal information collected and analyzed concerning a
9 consumer’s sex life or sexual orientation.

10 (3) Sensitive personal information that is “publicly available”
11 pursuant to paragraph (2) of subdivision (v) shall not be considered
12 sensitive personal information or personal information.

13 (af) “Service” or “services” means work, labor, and services,
14 including services furnished in connection with the sale or repair
15 of goods.

16 (ag) (1) “Service provider” means a person that processes
17 personal information on behalf of a business and that receives from
18 or on behalf of the business consumer’s personal information for
19 a business purpose pursuant to a written contract, provided that
20 the contract prohibits the person from:

21 (A) Selling or sharing the personal information.

22 (B) Retaining, using, or disclosing the personal information for
23 any purpose other than for the business purposes specified in the
24 contract for the business, including retaining, using, or disclosing
25 the personal information for a commercial purpose other than the
26 business purposes specified in the contract with the business, or
27 as otherwise permitted by this title.

28 (C) Retaining, using, or disclosing the information outside of
29 the direct business relationship between the service provider and
30 the business.

31 (D) Combining the personal information that the service provider
32 receives from, or on behalf of, the business with personal
33 information that it receives from, or on behalf of, another person
34 or persons, or collects from its own interaction with the consumer,
35 provided that the service provider may combine personal
36 information to perform any business purpose as defined in
37 regulations adopted pursuant to paragraph (9) of subdivision (a)
38 of Section 1798.185, except as provided for in paragraph (6) of
39 subdivision (e) of this section and in regulations adopted by the
40 California Privacy Protection Agency. The contract may, subject

1 to agreement with the service provider, permit the business to
2 monitor the service provider's compliance with the contract through
3 measures, including, but not limited to, ongoing manual reviews
4 and automated scans and regular assessments, audits, or other
5 technical and operational testing at least once every 12 months.

6 (2) If a service provider engages any other person to assist it in
7 processing personal information for a business purpose on behalf
8 of the business, or if any other person engaged by the service
9 provider engages another person to assist in processing personal
10 information for that business purpose, it shall notify the business
11 of that engagement, and the engagement shall be pursuant to a
12 written contract binding the other person to observe all the
13 requirements set forth in paragraph (1).

14 (ah) (1) "Share," "shared," or "sharing" means sharing, renting,
15 releasing, disclosing, disseminating, making available, transferring,
16 or otherwise communicating orally, in writing, or by electronic or
17 other means, a consumer's personal information by the business
18 to a third party for cross-context behavioral advertising, whether
19 or not for monetary or other valuable consideration, including
20 transactions between a business and a third party for cross-context
21 behavioral advertising for the benefit of a business in which no
22 money is exchanged.

23 (2) For purposes of this title, a business does not share personal
24 information when:

25 (A) A consumer uses or directs the business to intentionally
26 disclose personal information or intentionally interact with one or
27 more third parties.

28 (B) The business uses or shares an identifier for a consumer
29 who has opted out of the sharing of the consumer's personal
30 information or limited the use of the consumer's sensitive personal
31 information for the purposes of alerting persons that the consumer
32 has opted out of the sharing of the consumer's personal information
33 or limited the use of the consumer's sensitive personal information.

34 (C) The business transfers to a third party the personal
35 information of a consumer as an asset that is part of a merger,
36 acquisition, bankruptcy, or other transaction in which the third
37 party assumes control of all or part of the business, provided that
38 information is used or shared consistently with this title. If a third
39 party materially alters how it uses or shares the personal
40 information of a consumer in a manner that is materially

1 inconsistent with the promises made at the time of collection, it
2 shall provide prior notice of the new or changed practice to the
3 consumer. The notice shall be sufficiently prominent and robust
4 to ensure that existing consumers can easily exercise their choices
5 consistently with this title. This subparagraph does not authorize
6 a business to make material, retroactive privacy policy changes or
7 make other changes in their privacy policy in a manner that would
8 violate the Unfair and Deceptive Practices Act (Chapter 5
9 (commencing with Section 17200) of Part 2 of Division 7 of the
10 Business and Professions Code).

11 (ai) “Third party” means a person who is not any of the
12 following:

13 (1) The business with whom the consumer intentionally interacts
14 and that collects personal information from the consumer as part
15 of the consumer’s current interaction with the business under this
16 title.

17 (2) A service provider to the business.

18 (3) A contractor.

19 (aj) “Unique identifier” or “unique personal identifier” means
20 a persistent identifier that can be used to recognize a consumer, a
21 family, or a device that is linked to a consumer or family, over
22 time and across different services, including, but not limited to, a
23 device identifier; an Internet Protocol address; cookies, beacons,
24 pixel tags, mobile ad identifiers, or similar technology; customer
25 number, unique pseudonym, or user alias; telephone numbers, or
26 other forms of persistent or probabilistic identifiers that can be
27 used to identify a particular consumer or device that is linked to a
28 consumer or family. For purposes of this subdivision, “family”
29 means a custodial parent or guardian and any children under 18
30 years of age over which the parent or guardian has custody.

31 (ak) “Verifiable consumer request” means a request that is made
32 by a consumer, by a consumer on behalf of the consumer’s minor
33 child, by a natural person or a person registered with the Secretary
34 of State, authorized by the consumer to act on the consumer’s
35 behalf, or by a person who has power of attorney or is acting as a
36 conservator for the consumer, and that the business can verify,
37 using commercially reasonable methods, pursuant to regulations
38 adopted by the Attorney General pursuant to paragraph (6) of
39 subdivision (a) of Section 1798.185 to be the consumer about
40 whom the business has collected personal information. A business

1 is not obligated to provide information to the consumer pursuant
2 to Sections 1798.110 and 1798.115, to delete personal information
3 pursuant to Section 1798.105, or to correct inaccurate personal
4 information pursuant to Section 1798.106, if the business cannot
5 verify, pursuant to this subdivision and regulations adopted by the
6 Attorney General pursuant to paragraph (6) of subdivision (a) of
7 Section 1798.185, that the consumer making the request is the
8 consumer about whom the business has collected information or
9 is a person authorized by the consumer to act on such consumer's
10 behalf.

11 *SEC. 1.5. Section 1798.140 of the Civil Code, as amended by
12 Section 5 of Chapter 121 of the Statutes of 2024, is amended to
13 read:*

14 1798.140. Definitions

15 For purposes of this title:

16 (a) "Advertising and marketing" means a communication by a
17 business or a person acting on the business' behalf in any medium
18 intended to induce a consumer to obtain goods, services, or
19 employment.

20 (b) "Aggregate consumer information" means information that
21 relates to a group or category of consumers, from which individual
22 consumer identities have been removed, that is not linked or
23 reasonably linkable to any consumer or household, including via
24 a device. "Aggregate consumer information" does not mean one
25 or more individual consumer records that have been deidentified.

26 (c) "Biometric information" means an individual's physiological,
27 biological, or behavioral characteristics, including information
28 pertaining to an individual's deoxyribonucleic acid (DNA), that
29 is used or is intended to be used singly or in combination with each
30 other or with other identifying data, to establish individual identity.
31 Biometric information includes, but is not limited to, imagery of
32 the iris, retina, fingerprint, face, hand, palm, vein patterns, and
33 voice recordings, from which an identifier template, such as a
34 faceprint, a minutiae template, or a voiceprint, can be extracted,
35 and keystroke patterns or rhythms, gait patterns or rhythms, and
36 sleep, health, or exercise data that contain identifying information.

37 (d) "Business" means:

38 (1) A sole proprietorship, partnership, limited liability company,
39 corporation, association, or other legal entity that is organized or
40 operated for the profit or financial benefit of its shareholders or

1 other owners, that collects consumers' personal information, or
2 on the behalf of which such information is collected and that alone,
3 or jointly with others, determines the purposes and means of the
4 processing of consumers' personal information, that does business
5 in the State of California, and that satisfies one or more of the
6 following thresholds:

7 (A) As of January 1 of the calendar year, had annual gross
8 revenues in excess of twenty-five million dollars (\$25,000,000)
9 in the preceding calendar year, as adjusted pursuant to subdivision
10 (d) of Section 1798.199.95.

11 (B) Alone or in combination, annually buys, sells, or shares the
12 personal information of 100,000 or more consumers or households.

13 (C) Derives 50 percent or more of its annual revenues from
14 selling or sharing consumers' personal information.

15 (2) Any entity that controls or is controlled by a business, as
16 defined in paragraph (1), and that shares common branding with
17 the business and with whom the business shares consumers'
18 personal information. "Control" or "controlled" means ownership
19 of, or the power to vote, more than 50 percent of the outstanding
20 shares of any class of voting security of a business; control in any
21 manner over the election of a majority of the directors, or of
22 individuals exercising similar functions; or the power to exercise
23 a controlling influence over the management of a company.
24 "Common branding" means a shared name, servicemark, or
25 trademark that the average consumer would understand that two
26 or more entities are commonly owned.

27 (3) A joint venture or partnership composed of businesses in
28 which each business has at least a 40 percent interest. For purposes
29 of this title, the joint venture or partnership and each business that
30 composes the joint venture or partnership shall separately be
31 considered a single business, except that personal information in
32 the possession of each business and disclosed to the joint venture
33 or partnership shall not be shared with the other business.

34 (4) A person that does business in California, that is not covered
35 by paragraph (1), (2), or (3), and that voluntarily certifies to the
36 California Privacy Protection Agency that it is in compliance with,
37 and agrees to be bound by, this title.

38 (e) "Business purpose" means the use of personal information
39 for the business' operational purposes, or other notified purposes,
40 or for the service provider or contractor's operational purposes,

1 as defined by regulations adopted pursuant to paragraph (10) of
2 subdivision (a) of Section 1798.185, provided that the use of
3 personal information shall be reasonably necessary and
4 proportionate to achieve the purpose for which the personal
5 information was collected or processed or for another purpose that
6 is compatible with the context in which the personal information
7 was collected. Business purposes are:

8 (1) Auditing related to counting ad impressions to unique
9 visitors, verifying positioning and quality of ad impressions, and
10 auditing compliance with this specification and other standards.

11 (2) Helping to ensure security and integrity to the extent the use
12 of the consumer's personal information is reasonably necessary
13 and proportionate for these purposes.

14 (3) Debugging to identify and repair errors that impair existing
15 intended functionality.

16 (4) Short-term, transient use, including, but not limited to,
17 nonpersonalized advertising shown as part of a consumer's current
18 interaction with the business, provided that the consumer's personal
19 information is not disclosed to another third party and is not used
20 to build a profile about the consumer or otherwise alter the
21 consumer's experience outside the current interaction with the
22 business.

23 (5) Performing services on behalf of the business, including
24 maintaining or servicing accounts, providing customer service,
25 processing or fulfilling orders and transactions, verifying customer
26 information, processing payments, providing financing, providing
27 analytic services, providing storage, or providing similar services
28 on behalf of the business.

29 (6) Providing advertising and marketing services, except for
30 cross-context behavioral advertising, to the consumer provided
31 that, for the purpose of advertising and marketing, a service
32 provider or contractor shall not combine the personal information
33 of opted-out consumers that the service provider or contractor
34 receives from, or on behalf of, the business with personal
35 information that the service provider or contractor receives from,
36 or on behalf of, another person or persons or collects from its own
37 interaction with consumers.

38 (7) Undertaking internal research for technological development
39 and demonstration.

1 (8) Undertaking activities to verify or maintain the quality or
2 safety of a service or device that is owned, manufactured,
3 manufactured for, or controlled by the business, and to improve,
4 upgrade, or enhance the service or device that is owned,
5 manufactured, manufactured for, or controlled by the business.

6 (f) “Collects,” “collected,” or “collection” means buying,
7 renting, gathering, obtaining, receiving, or accessing any personal
8 information pertaining to a consumer by any means. This includes
9 receiving information from the consumer, either actively or
10 passively, or by observing the consumer’s behavior.

11 (g) “Commercial purposes” means to advance a person’s
12 commercial or economic interests, such as by inducing another
13 person to buy, rent, lease, join, subscribe to, provide, or exchange
14 products, goods, property, information, or services, or enabling or
15 effecting, directly or indirectly, a commercial transaction.

16 (h) “Consent” means any freely given, specific, informed, and
17 unambiguous indication of the consumer’s wishes by which the
18 consumer, or the consumer’s legal guardian, a person who has
19 power of attorney, or a person acting as a conservator for the
20 consumer, including by a statement or by a clear affirmative action,
21 signifies agreement to the processing of personal information
22 relating to the consumer for a narrowly defined particular purpose.
23 Acceptance of a general or broad terms of use, or similar document,
24 that contains descriptions of personal information processing along
25 with other, unrelated information, does not constitute consent.
26 Hovering over, muting, pausing, or closing a given piece of content
27 does not constitute consent. Likewise, agreement obtained through
28 use of dark patterns does not constitute consent.

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

33 (j) (1) “Contractor” means a person to whom the business makes
34 available a consumer’s personal information for a business purpose,
35 pursuant to a written contract with the business, provided that the
36 contract:

37 (A) Prohibits the contractor from:

38 (i) Selling or sharing the personal information.

39 (ii) Retaining, using, or disclosing the personal information for
40 any purpose other than for the business purposes specified in the

1 contract, including retaining, using, or disclosing the personal
2 information for a commercial purpose other than the business
3 purposes specified in the contract, or as otherwise permitted by
4 this title.

5 (iii) Retaining, using, or disclosing the information outside of
6 the direct business relationship between the contractor and the
7 business.

8 (iv) Combining the personal information that the contractor
9 receives pursuant to a written contract with the business with
10 personal information that it receives from or on behalf of another
11 person or persons, or collects from its own interaction with the
12 consumer, provided that the contractor may combine personal
13 information to perform any business purpose as defined in
14 regulations adopted pursuant to paragraph (9) of subdivision (a)
15 of Section 1798.185, except as provided for in paragraph (6) of
16 subdivision (e) and in regulations adopted by the California Privacy
17 Protection Agency.

18 (B) Includes a certification made by the contractor that the
19 contractor understands the restrictions in subparagraph (A) and
20 will comply with them.

21 (C) Permits, subject to agreement with the contractor, the
22 business to monitor the contractor's compliance with the contract
23 through measures, including, but not limited to, ongoing manual
24 reviews and automated scans and regular assessments, audits, or
25 other technical and operational testing at least once every 12
26 months.

27 (2) If a contractor engages any other person to assist it in
28 processing personal information for a business purpose on behalf
29 of the business, or if any other person engaged by the contractor
30 engages another person to assist in processing personal information
31 for that business purpose, it shall notify the business of that
32 engagement, and the engagement shall be pursuant to a written
33 contract binding the other person to observe all the requirements
34 set forth in paragraph (1).

35 (k) "Cross-context behavioral advertising" means the targeting
36 of advertising to a consumer based on the consumer's personal
37 information obtained from the consumer's activity across
38 businesses, distinctly branded internet websites, applications, or
39 services, other than the business, distinctly branded internet

1 website, application, or service with which the consumer
2 intentionally interacts.

3 (l) “Dark pattern” means a user interface designed or
4 manipulated with the substantial effect of subverting or impairing
5 user autonomy, decisionmaking, or choice, as further defined by
6 regulation.

7 (m) “Deidentified” means information that cannot reasonably
8 be used to infer information about, or otherwise be linked to, a
9 particular consumer provided that the business that possesses the
10 information:

11 (1) Takes reasonable measures to ensure that the information
12 cannot be associated with a consumer or household.

13 (2) Publicly commits to maintain and use the information in
14 deidentified form and not to attempt to reidentify the information,
15 except that the business may attempt to reidentify the information
16 solely for the purpose of determining whether its deidentification
17 processes satisfy the requirements of this subdivision.

18 (3) Contractually obligates any recipients of the information to
19 comply with all provisions of this subdivision.

20 (n) “Designated methods for submitting requests” means a
21 mailing address, email address, internet web page, internet web
22 portal, toll-free telephone number, or other applicable contact
23 information, whereby consumers may submit a request or direction
24 under this title, and any new, consumer-friendly means of
25 contacting a business, as approved by the Attorney General
26 pursuant to Section 1798.185.

27 (o) “Device” means any physical object that is capable of
28 connecting to the internet, directly or indirectly, or to another
29 device.

30 (p) “Homepage” means the introductory page of an internet
31 website and any internet web page where personal information is
32 collected. In the case of an online service, such as a mobile
33 application, homepage means the application’s platform page or
34 download page, a link within the application, such as from the
35 application configuration, “About,” “Information,” or settings
36 page, and any other location that allows consumers to review the
37 notices required by this title, including, but not limited to, before
38 downloading the application.

1 (q) “Household” means a group, however identified, of
2 consumers who cohabit with one another at the same residential
3 address and share use of common devices or services.

4 (r) “Infer” or “inference” means the derivation of information,
5 data, assumptions, or conclusions from facts, evidence, or another
6 source of information or data.

7 (s) “Intentionally interacts” means when the consumer intends
8 to interact with a person, or disclose personal information to a
9 person, via one or more deliberate interactions, including visiting
10 the person’s internet website or purchasing a good or service from
11 the person. Hovering over, muting, pausing, or closing a given
12 piece of content does not constitute a consumer’s intent to interact
13 with a person.

14 (t) “Nonpersonalized advertising” means advertising and
15 marketing that is based solely on a consumer’s personal
16 information derived from the consumer’s current interaction with
17 the business with the exception of the consumer’s precise
18 geolocation.

19 (u) “Person” means an individual, proprietorship, firm,
20 partnership, joint venture, syndicate, business trust, company,
21 corporation, limited liability company, association, committee,
22 and any other organization or group of persons acting in concert.

23 (v) (1) “Personal information” means information that identifies,
24 relates to, describes, is reasonably capable of being associated
25 with, or could reasonably be linked, directly or indirectly, with a
26 particular consumer or household. Personal information includes,
27 but is not limited to, the following if it identifies, relates to,
28 describes, is reasonably capable of being associated with, or could
29 be reasonably linked, directly or indirectly, with a particular
30 consumer or household:

31 (A) Identifiers such as a real name, alias, postal address, unique
32 personal identifier, online identifier, Internet Protocol address,
33 email address, account name, social security number, driver’s
34 license number, passport number, or other similar identifiers.

35 (B) Any personal information described in subdivision (e) of
36 Section 1798.80.

37 (C) Characteristics of protected classifications under California
38 or federal law.

1 (D) Commercial information, including records of personal
2 property, products or services purchased, obtained, or considered,
3 or other purchasing or consuming histories or tendencies.

4 (E) Biometric information.

5 (F) Internet or other electronic network activity information,
6 including, but not limited to, browsing history, search history, and
7 information regarding a consumer's interaction with an internet
8 website application, or advertisement.

9 (G) Geolocation data.

10 (H) Audio, electronic, visual, thermal, olfactory, or similar
11 information.

12 (I) Professional or employment-related information.

13 (J) Education information, defined as information that is not
14 publicly available personally identifiable information as defined
15 in the Family Educational Rights and Privacy Act (20 U.S.C. Sec.
16 1232g; 34 C.F.R. Part 99).

17 (K) Inferences drawn from any of the information identified in
18 this subdivision to create a profile about a consumer reflecting the
19 consumer's preferences, characteristics, psychological trends,
20 predispositions, behavior, attitudes, intelligence, abilities, and
21 aptitudes.

22 (L) Sensitive personal information.

23 (2) ~~“Personal information” does not include publicly available~~
24 ~~information or lawfully obtained, truthful information that is a~~
25 ~~matter of public concern. For purposes of this paragraph, “publicly~~
26 ~~available” means: information that is lawfully made available from~~
27 ~~federal, state, or local government records, or information that a~~
28 ~~business has a reasonable basis to believe is lawfully made~~
29 ~~available to the general public by the consumer or from widely~~
30 ~~distributed media; or information made available by a person to~~
31 ~~whom the consumer has disclosed the information if the consumer~~
32 ~~has not restricted the information to a specific audience. “Publicly~~
33 ~~available” does not mean biometric information collected by a~~
34 ~~business about a consumer without the consumer’s knowledge.~~

35 (2) (A) *“Personal information” does not include publicly*
36 *available information or lawfully obtained, truthful information*
37 *that is a matter of public concern.*

38 (B) (i) *For purposes of this paragraph, “publicly available”*
39 *means any of the following:*

1 (I) *Information that is lawfully made available from federal,*
2 *state, or local government records.*

3 (II) *Information that a business has a reasonable basis to believe*
4 *is lawfully made available to the general public by the consumer*
5 *or from widely distributed media.*

6 (III) *Information made available by a person to whom the*
7 *consumer has disclosed the information if the consumer has not*
8 *restricted the information to a specific audience.*

9 (ii) *“Publicly available” does not mean biometric information*
10 *collected by a business about a consumer without the consumer’s*
11 *knowledge.*

12 (3) *“Personal information” does not include consumer*
13 *information that is deidentified or aggregate consumer information.*

14 (4) *“Personal information” can exist in various formats,*
15 *including, but not limited to, all of the following:*

16 (A) *Physical formats, including paper documents, printed*
17 *images, vinyl records, or video tapes.*

18 (B) *Digital formats, including text, image, audio, or video files.*

19 (C) *Abstract digital formats, including compressed or encrypted*
20 *files, metadata, or artificial intelligence systems that are capable*
21 *of outputting personal information.*

22 (w) *“Precise geolocation” means any data that is derived from*
23 *a device and that is used or intended to be used to locate a*
24 *consumer within a geographic area that is equal to or less than the*
25 *area of a circle with a radius of 1,850 feet, except as prescribed*
26 *by regulations.*

27 (x) *“Probabilistic identifier” means the identification of a*
28 *consumer or a consumer’s device to a degree of certainty of more*
29 *probable than not based on any categories of personal information*
30 *included in, or similar to, the categories enumerated in the*
31 *definition of personal information.*

32 (y) *“Processing” means any operation or set of operations that*
33 *are performed on personal information or on sets of personal*
34 *information, whether or not by automated means.*

35 (z) *“Profiling” means any form of automated processing of*
36 *personal information, as further defined by regulations pursuant*
37 *to paragraph (15) of subdivision (a) of Section 1798.185, to*
38 *evaluate certain personal aspects relating to a natural person and*
39 *in particular to analyze or predict aspects concerning that natural*

1 person's performance at work, economic situation, health, personal
2 preferences, interests, reliability, behavior, location, or movements.

3 (aa) "Pseudonymize" or "Pseudonymization" means the
4 processing of personal information in a manner that renders the
5 personal information no longer attributable to a specific consumer
6 without the use of additional information, provided that the
7 additional information is kept separately and is subject to technical
8 and organizational measures to ensure that the personal information
9 is not attributed to an identified or identifiable consumer.

10 (ab) "Research" means scientific analysis, systematic study,
11 and observation, including basic research or applied research that
12 is designed to develop or contribute to public or scientific
13 knowledge and that adheres or otherwise conforms to all other
14 applicable ethics and privacy laws, including, but not limited to,
15 studies conducted in the public interest in the area of public health.
16 Research with personal information that may have been collected
17 from a consumer in the course of the consumer's interactions with
18 a business' service or device for other purposes shall be:

19 (1) Compatible with the business purpose for which the personal
20 information was collected.

21 (2) Subsequently pseudonymized and deidentified, or
22 deidentified and in the aggregate, such that the information cannot
23 reasonably identify, relate to, describe, be capable of being
24 associated with, or be linked, directly or indirectly, to a particular
25 consumer, by a business.

26 (3) Made subject to technical safeguards that prohibit
27 reidentification of the consumer to whom the information may
28 pertain, other than as needed to support the research.

29 (4) Subject to business processes that specifically prohibit
30 reidentification of the information, other than as needed to support
31 the research.

32 (5) Made subject to business processes to prevent inadvertent
33 release of deidentified information.

34 (6) Protected from any reidentification attempts.

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

37 (8) Subjected by the business conducting the research to
38 additional security controls that limit access to the research data
39 to only those individuals as are necessary to carry out the research
40 purpose.

1 (ac) “Security and integrity” means the ability of:

2 (1) Networks or information systems to detect security incidents
3 that compromise the availability, authenticity, integrity, and
4 confidentiality of stored or transmitted personal information.

5 (2) Businesses to detect security incidents, resist malicious,
6 deceptive, fraudulent, or illegal actions and to help prosecute those
7 responsible for those actions.

8 (3) Businesses to ensure the physical safety of natural persons.

9 (ad) (1) “Sell,” “selling,” “sale,” or “sold,” means selling,
10 renting, releasing, disclosing, disseminating, making available,
11 transferring, or otherwise communicating orally, in writing, or by
12 electronic or other means, a consumer’s personal information by
13 the business to a third party for monetary or other valuable
14 consideration.

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

17 (A) A consumer uses or directs the business to intentionally:

18 (i) Disclose personal information.

19 (ii) Interact with one or more third parties.

20 (B) The business uses or shares an identifier for a consumer
21 who has opted out of the sale of the consumer’s personal
22 information or limited the use of the consumer’s sensitive personal
23 information for the purposes of alerting persons that the consumer
24 has opted out of the sale of the consumer’s personal information
25 or limited the use of the consumer’s sensitive personal information.

26 (C) The business transfers to a third party the personal
27 information of a consumer as an asset that is part of a merger,
28 acquisition, bankruptcy, or other transaction in which the third
29 party assumes control of all or part of the business, provided that
30 information is used or shared consistently with this title. If a third
31 party materially alters how it uses or shares the personal
32 information of a consumer in a manner that is materially
33 inconsistent with the promises made at the time of collection, it
34 shall provide prior notice of the new or changed practice to the
35 consumer. The notice shall be sufficiently prominent and robust
36 to ensure that existing consumers can easily exercise their choices
37 consistently with this title. This subparagraph does not authorize
38 a business to make material, retroactive privacy policy changes or
39 make other changes in their privacy policy in a manner that would
40 violate the Unfair and Deceptive Practices Act (Chapter 5

1 (commencing with Section 17200) of Part 2 of Division 7 of the
2 Business and Professions Code).

3 (ae) “Sensitive personal information” means:

4 (1) Personal information that reveals:

5 (A) A consumer’s social security, driver’s license, state
6 identification card, or passport number.

7 (B) A consumer’s account log-in, financial account, debit card,
8 or credit card number in combination with any required security
9 or access code, password, or credentials allowing access to an
10 account.

11 (C) A consumer’s precise geolocation.

12 (D) A consumer’s racial or ethnic origin, citizenship or
13 immigration status, religious or philosophical beliefs, or union
14 membership.

15 (E) The contents of a consumer’s mail, email, and text messages
16 unless the business is the intended recipient of the communication.

17 (F) A consumer’s genetic data.

18 (G) (i) *A consumer’s neural data.*

19 (ii) *“Neural data” means information that is generated by
20 measuring the activity of a consumer’s central or peripheral
21 nervous system, and that is not inferred from nonneural
22 information.*

23 (2) (A) The processing of biometric information for the purpose
24 of uniquely identifying a consumer.

25 (B) Personal information collected and analyzed concerning a
26 consumer’s health.

27 (C) Personal information collected and analyzed concerning a
28 consumer’s sex life or sexual orientation.

29 (3) Sensitive personal information that is “publicly available”
30 pursuant to paragraph (2) of subdivision (v) shall not be considered
31 sensitive personal information or personal information.

32 (af) “Service” or “services” means work, labor, and services,
33 including services furnished in connection with the sale or repair
34 of goods.

35 (ag) (1) “Service provider” means a person that processes
36 personal information on behalf of a business and that receives from
37 or on behalf of the business consumer’s personal information for
38 a business purpose pursuant to a written contract, provided that
39 the contract prohibits the person from:

40 (A) Selling or sharing the personal information.

1 (B) Retaining, using, or disclosing the personal information for
2 any purpose other than for the business purposes specified in the
3 contract for the business, including retaining, using, or disclosing
4 the personal information for a commercial purpose other than the
5 business purposes specified in the contract with the business, or
6 as otherwise permitted by this title.

7 (C) Retaining, using, or disclosing the information outside of
8 the direct business relationship between the service provider and
9 the business.

10 (D) Combining the personal information that the service provider
11 receives from, or on behalf of, the business with personal
12 information that it receives from, or on behalf of, another person
13 or persons, or collects from its own interaction with the consumer,
14 provided that the service provider may combine personal
15 information to perform any business purpose as defined in
16 regulations adopted pursuant to paragraph (9) of subdivision (a)
17 of Section 1798.185, except as provided for in paragraph (6) of
18 subdivision (e) of this section and in regulations adopted by the
19 California Privacy Protection Agency. The contract may, subject
20 to agreement with the service provider, permit the business to
21 monitor the service provider's compliance with the contract through
22 measures, including, but not limited to, ongoing manual reviews
23 and automated scans and regular assessments, audits, or other
24 technical and operational testing at least once every 12 months.

25 (2) If a service provider engages any other person to assist it in
26 processing personal information for a business purpose on behalf
27 of the business, or if any other person engaged by the service
28 provider engages another person to assist in processing personal
29 information for that business purpose, it shall notify the business
30 of that engagement, and the engagement shall be pursuant to a
31 written contract binding the other person to observe all the
32 requirements set forth in paragraph (1).

33 (ah) (1) "Share," "shared," or "sharing" means sharing, renting,
34 releasing, disclosing, disseminating, making available, transferring,
35 or otherwise communicating orally, in writing, or by electronic or
36 other means, a consumer's personal information by the business
37 to a third party for cross-context behavioral advertising, whether
38 or not for monetary or other valuable consideration, including
39 transactions between a business and a third party for cross-context

1 behavioral advertising for the benefit of a business in which no
2 money is exchanged.

3 (2) For purposes of this title, a business does not share personal
4 information when:

5 (A) A consumer uses or directs the business to intentionally
6 disclose personal information or intentionally interact with one or
7 more third parties.

8 (B) The business uses or shares an identifier for a consumer
9 who has opted out of the sharing of the consumer's personal
10 information or limited the use of the consumer's sensitive personal
11 information for the purposes of alerting persons that the consumer
12 has opted out of the sharing of the consumer's personal information
13 or limited the use of the consumer's sensitive personal information.

14 (C) The business transfers to a third party the personal
15 information of a consumer as an asset that is part of a merger,
16 acquisition, bankruptcy, or other transaction in which the third
17 party assumes control of all or part of the business, provided that
18 information is used or shared consistently with this title. If a third
19 party materially alters how it uses or shares the personal
20 information of a consumer in a manner that is materially
21 inconsistent with the promises made at the time of collection, it
22 shall provide prior notice of the new or changed practice to the
23 consumer. The notice shall be sufficiently prominent and robust
24 to ensure that existing consumers can easily exercise their choices
25 consistently with this title. This subparagraph does not authorize
26 a business to make material, retroactive privacy policy changes or
27 make other changes in their privacy policy in a manner that would
28 violate the Unfair and Deceptive Practices Act (Chapter 5
29 (commencing with Section 17200) of Part 2 of Division 7 of the
30 Business and Professions Code).

31 (ai) "Third party" means a person who is not any of the
32 following:

33 (1) The business with whom the consumer intentionally interacts
34 and that collects personal information from the consumer as part
35 of the consumer's current interaction with the business under this
36 title.

37 (2) A service provider to the business.

38 (3) A contractor.

39 (aj) "Unique identifier" or "unique personal identifier" means
40 a persistent identifier that can be used to recognize a consumer, a

1 family, or a device that is linked to a consumer or family, over
2 time and across different services, including, but not limited to, a
3 device identifier; an Internet Protocol address; cookies, beacons,
4 pixel tags, mobile ad identifiers, or similar technology; customer
5 number, unique pseudonym, or user alias; telephone numbers, or
6 other forms of persistent or probabilistic identifiers that can be
7 used to identify a particular consumer or device that is linked to a
8 consumer or family. For purposes of this subdivision, “family”
9 means a custodial parent or guardian and any children under 18
10 years of age over which the parent or guardian has custody.

11 (ak) “Verifiable consumer request” means a request that is made
12 by a consumer, by a consumer on behalf of the consumer’s minor
13 child, by a natural person or a person registered with the Secretary
14 of State, authorized by the consumer to act on the consumer’s
15 behalf, or by a person who has power of attorney or is acting as a
16 conservator for the consumer, and that the business can verify,
17 using commercially reasonable methods, pursuant to regulations
18 adopted by the Attorney General pursuant to paragraph (6) of
19 subdivision (a) of Section 1798.185 to be the consumer about
20 whom the business has collected personal information. A business
21 is not obligated to provide information to the consumer pursuant
22 to Sections 1798.110 and 1798.115, to delete personal information
23 pursuant to Section 1798.105, or to correct inaccurate personal
24 information pursuant to Section 1798.106, if the business cannot
25 verify, pursuant to this subdivision and regulations adopted by the
26 Attorney General pursuant to paragraph (6) of subdivision (a) of
27 Section 1798.185, that the consumer making the request is the
28 consumer about whom the business has collected information or
29 is a person authorized by the consumer to act on such consumer’s
30 behalf.

31 *SEC. 2. Section 1.5 of this bill incorporates amendments to
32 Section 1798.140 of the Civil Code proposed by both this bill and
33 Assembly Bill 1008. That section of this bill shall become operative
34 only if (1) both bills are enacted and become effective on or before
35 January 1, 2025, (2) each bill amends Section 1798.140 of the
36 Civil Code and (3) this bill is enacted after Assembly Bill 1008,
37 in which case Section 1 of this bill shall not become operative.*

1 SEC. 2.

2 *SEC. 3.* The Legislature finds and declares that this act furthers
3 the purposes and intent of the California Privacy Rights Act of
4 2020.

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