

CCPA AMENDMENTS SIGNED INTO LAW

On October 11, 2019, Governor Gavin Newsom signed into law five bills that directly amend the California Consumer Privacy Act—AB 25, AB 874, AB 1146, AB 1355 and AB 1564. In addition, Governor Newsom signed two other bills related to data privacy, AB 1202 and AB 1130.

BILL NO (LEAD AUTHOR)	SUBJECT	SUMMARY
AB 25 (Chau)	Exemption from CCPA of personal information (PI) collected by a business about employees, owners, directors, officers and other associated persons of a business	<ul style="list-style-type: none"> Exempts from the CCPA PI collected by a business where the PI is (i) collected about a natural person in the course of the natural person acting as a job applicant to, or employee, owner, director, officer, medical staff member or contractor of the business, (ii) emergency contact information of such individuals, and (iii) necessary to be retained for the administration of benefits, in each case where the PI is used solely within the context in which it was collected Exemption is subject to a one-year sunset provision, making it inoperative on January 1, 2021 Exemption does not apply to the CCPA's private right of action for data breach Businesses must still inform employees about the types of information they are collecting about them and the purposes for doing so; exemption is not complete Authorizes a business to require reasonable authentication of consumers in connection with CCPA requests
AB 874 (Irwin)	Expansion of publicly available information exemption and narrowing of personal information definition	<ul style="list-style-type: none"> Redefines the term "publicly available" to clarify that it refers to information that is lawfully available in federal, state or local records, regardless of whether the information is being used in a way that is compatible with the purpose for which the data is maintained Narrows definition of "personal information" to include information that is "<i>reasonably</i> capable of being associated" with a consumer Clarifies that personal information does not include de-identified or aggregated data
AB 1146 (Berman)	Right of deletion and opt-out rights in the context of vehicle warranties and recalls	<ul style="list-style-type: none"> States that the right of deletion does not apply if it is necessary for the business or service provider to maintain the consumer's PI in order to fulfill the terms of a written warranty or recall conducted in accordance with federal law Provides a limited exemption from the consumer's right to opt out of the sale of PI

BILL NO (LEAD AUTHOR)	SUBJECT	SUMMARY
AB 1355 (Chau)	Addressing differential treatment and disclosures	<ul style="list-style-type: none"> ■ Clarifies the scope and application of the CCPA's Fair Credit Report Act exemption ■ B2B Exemption: Specifies that certain CCPA obligations do not apply to PI reflecting a communication or transaction between the business and the "consumer," where the "consumer" is a natural person: <ol style="list-style-type: none"> 1) who is an employee, owner, director, officer or contractor of a government agency or a business, as specified; and 2) whose communications or transactions with the business occur solely within the context of the business conducting due diligence regarding, or providing or receiving a product or service to or from, that business or government agency (<i>i.e.</i>, "B2B" communications or transactions). B2B clarification is subject to a one-year sunset provision, making it inoperative on January 1, 2021. ■ Clarifies that businesses do not need to collect PI that they would not otherwise collect in the ordinary course of their business or retain PI for longer than they would otherwise retain in the ordinary course of their business ■ Revises the CCPA section establishing a data breach private right of action to clarify it applies to any consumer whose "nonencrypted <i>and</i> nonredacted" PI is subject to an unauthorized access and exfiltration, theft or disclosure ■ Clarifies that the definition of personal information excludes de-identified or aggregated data ■ Under the non-discrimination provision, allows differential treatment of a consumer who has exercised CCPA rights if the differential treatment is reasonably related to value provided to the business (rather than to the consumer) by the consumer's information
AB 1564 (Berman)	Consumer requests for disclosure methods	<ul style="list-style-type: none"> ■ Retains general requirement that businesses must make available to consumers two or more designated methods for submitting requests for information, including at a minimum, a toll-free telephone number ■ Specifies that a business which operates exclusively online and has a direct relationship with a consumer from whom it collects PI is only required to provide an email address for purposes of submitting certain consumer requests for information disclosures required under the CCPA ■ Clarifies that if the business maintains an internet website, the business must make the internet website available to consumers to submit requests for CCPA information disclosures
AB 1202 (Chau)	Data broker registry	<ul style="list-style-type: none"> ■ Requires data brokers to register with, and provide certain information to, the attorney general ■ Data brokers are defined as businesses that knowingly collect and sell to third parties personal information of a consumer with whom the business does not have a direct relationship ■ Requires the attorney general to create a publicly available registry of data brokers on its website, and grants the attorney general enforcement authority for violations

BILL NO (LEAD AUTHOR)	SUBJECT	SUMMARY
AB 1130 (Levine)	Personal information; data breaches	<ul style="list-style-type: none">■ Expands the definition of personal information in California’s data breach notification statutes to include an individual’s first name or first initial and last name in combination with any of the following data elements, when either the name or the data elements are not encrypted (or redacted):<ul style="list-style-type: none">a) tax identification number;b) passport number;c) military identification number;d) other unique identification number issued on a government document commonly used to verify the identity of a specific individual; ore) unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina or iris image, used to authenticate a specific individual, but not including a physical or digital photograph, unless used or stored for facial recognition purposes <p>Note: AB 1130 is not an amendment to the CCPA itself, but rather to California’s data breach notification statute. This is relevant to the CCPA, however, because the CCPA references the data breach notification statute in giving scope to its private right of action. By expanding the types of personal information included in the data breach notification statute, the bill increases the range of breaches that could implicate the CCPA private right of action.</p>