

More Updates to the CCPA May Be Ahead

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Ever since the [California Consumer Privacy Act](#) (CCPA) was enacted in June of 2018 it has been in a constant state of revision. First, in September of 2018, Governor Jerry Brown [signed into law](#) Senate Bill 1121, which helped clarify and strengthen the original version of law. Then, in February of 2019, California Attorney General Xavier Becerra and Senator Hannah-Beth Jackson introduced [Senate Bill 561](#), similarly intended to clarify and strengthen the CCPA with expansion of the consumer's right to bring a private cause of action and removing certain ambiguous language. During this period, the California Attorney General's Office also conducted a CCPA rulemaking process with a [six-part series of public forums](#), allowing all interested persons the opportunity to provide their comments on the new law. And finally, earlier this week, the [California Assembly of Privacy and Consumer Protection Committee](#) ("Committee") introduced several bills intended to clarify some of the remaining ambiguities in the CCPA.

We've already [reported](#) on one of the bills, introduced by Committee Chairman Ed Chau's [AB 25](#), which the committee unanimously approved. AB 25 modifies the definition of consumer to exclude employees, and contractors (if a written contract is in place). In addition to AB 25, several other bills were approved by the Committee and will now advance to the Senate Judiciary Committee, chaired by Senator Jackson, a major proponent of protection of consumer rights. It is likely that some of these bills will not survive the legislative process, and others will be revised along the way. Below is a list of the Committee approved CCPA amendment bills:

- [AB 846](#) – A bill that updates the clause prohibiting businesses from discriminating against consumers who exercises "opt-out" rights by clarifying that loyalty, rewards, and similar programs are exempt.
- [AB 873](#) – A bill that helps clarify ambiguities in the definitions of personal and deidentified information.
- [AB 874](#) – A bill that updates the public record exemption under the definition of personal information.
- [AB 1146](#) – A bill clarifying a consumer's right to request that a business delete or not sell the consumer's personal information, in the context of a motor vehicle warranty or recall information.
- [AB 1355](#) – An additional bill introduced by Chairman Chau makes technical changes to CCPA

drafting flaws.

- [AB 1564](#) – A bill providing alternatives to the current requirement that a business makes available to consumers a toll-free number to submit requests for information regarding the use of their personal information. Alternatives include an email address and physical address for submitting requests.

The Committee also approved [AB 981](#) which would make significant changes affecting the insurance industry, including changes that would hope to incorporate California's Insurance Information and Privacy Protection Act ("IIPPA") to avoid overlap with CCPA, and exempting insurance institutions, agents, and support organizations (insurers) from certain CCPA provisions. Other changes include:

1. Providing that insurers or insurance transactions subject to the IIPPA shall be exempt from the CCPA. This exemption would not apply to the CCPA's limited private right of action for data breaches or business activity not subject to the IIPPA.
2. Defining various terms for the purposes of the IIPPA to mirror the definitions provided in the CCPA, including "consumer" to reflect the definition proposed in the March 25, 2019 version of AB 25, and "personal information" to reflect the definition of that term provided in the CCPA, with the exception of "household," which is absent from the definition, similar to AB 873.
3. Requiring insurers to provide certain notices concerning their information practices and privacy policies and procedures, including communications to individuals regarding the right to opt-out of disclosures.
4. Requiring an insurance institution, agent, or insurance-support organization to implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for the protection of policyholder information, as specified, and authorize the commissioner to audit an insurance institution, agent, or support organization's compliance.
5. Prohibiting an insurer from "unfairly discriminating," against an applicant or policyholder because that applicant or policyholder has opted out from the disclosure of nonpublic PI, or did not grant authorization for the disclosure of nonpublic personal medical record information.

In addition, the Senate Judiciary Committee was scheduled in a April 23 hearing to review [SB 753](#), a bill that would have revised the definition of "sell" to exempt situations where a business "*pursuant to a written contract, shares, discloses, or otherwise communicates to another business or third party a unique identifier only to the extent necessary to serve or audit a specific advertisement to the consumer.*" The bill would require such a "contract to *prohibit the other business or third party from sharing, selling, or otherwise communicating the information except as necessary to serve or audit advertisement from the business.*" Review of SB 753 was cancelled at the request of Senator Henry Stern, the bill's author, who faced criticism that the bill would negatively impact the CCPA's purpose.

We will continue to track and update on the fate of these bills. While it remains unclear which bills will ultimately stick, the CCPA is certain to see additional changes in the upcoming months.

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