



## ROUND ONE OF REVISIONS TO THE CCPA

On July 16, 2018, Severson [reported](#) on the new California Data Privacy Protection Act (the “CCPA”). As anticipated, the CCPA has been amended.

On September 23, 2018, Gov. Jerry Brown signed SB-1121 into law. It is effective immediately. The key amendments in SB-1121 are:

- Changes to the definition of “personal information”:
  - The examples of “personal information” listed in the original language of the CCPA will now only qualify “personal information” if the data “identifies, relates to, describes, is capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household.” Note – there is no definition of “household” provided.
- Changes to notice of right to deletion:
  - Under the original language of the CCPA, business were required to notify consumers of their right to request deletion of data on the business’ website. That is no longer required. Business are now required to advise consumers of their right to request deletion of data “in a form that is reasonably accessible to consumers.”
- Changes to private right of action:
  - A consumer may only sue a business for a data breach resulting from that business’ failure to “implement and maintain reasonable security procedures and practices.”
  - A consumer is no longer required to advise the California Attorney General (“AG”) when a lawsuit is filed and the AG can no longer prevent the consumer from proceeding with the suit.
- Changes to enforcement:
  - Enforcement powers of the AG are delayed until July 1, 2020.

- The AG’s timeline to draft and adopt the implementing regulations is also extended to July 1, 2020.
- Civil penalties by the AG are limited to \$2,500 (or \$7,500 for intentional violations) in addition to injunctive relief.
- Changes to exemptions:
  - Originally, information was exempted from the CCPA only if the CCPA was in conflict with Gramm-Leach-Bliley Act (“GLBA”) or the Driver’s Privacy Protection Act (“DPPA”). Under SB 1121, whether or not the CCPA conflicts with the other two laws is no longer relevant. Instead, data collected, processed, sold or disclosed under the GLBA, DPPA or the California Information Privacy Act is exempt from the CCPA and the CCPA’s private right of action.
- Changes to preemption:
  - Originally, the CCPA only stated that it was preempted by the California Constitution. Under SB 1121 the CCPA is now also preempted by the United States Constitution.
  - However, the CCPA preempts laws by local entities regarding the collection and sale of personal information.
- Addition of First Amendment Protection:
  - The CCPA now expressly states that the rights and obligations of the CCPA are inapplicable if they “infringe on the noncommercial activities of a person or entity” as set forth in free press section of the California Constitution.

Additional changes to the CCPA are anticipated in the upcoming months. Severson will continue to monitor and report on those changes. For additional information, contact Genevieve Walser-Jolly – grw@severson.com.