

BUSINESS & FACILITIES UPDATE

News and developments in bidding, building,
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AB 375 – The California Consumer Privacy Act of 2018.

This bill creates the California Consumer Privacy Act of 2018, which gives California residents (“consumers”) the right to:

1. Know what personal information a business has about them, and where information came from or was sent (e.g., who it was sold to);
2. Delete personal information that a business collects from them;
3. Opt-out of the sale of personal information about them; and
4. Receive equal service and pricing from a business, even if they exercise their privacy rights under the law, with some exceptions.

Companies will need to provide information to consumers about these rights in privacy policies and will need to provide consumers with the ability to opt out of the sale of personal information by supplying a link titled “Do Not Sell My Personal Information” on their home page. The Act further provides that a business must not sell the personal information of consumers younger than 16 years of age without that consumer’s affirmative consent or for consumers younger than 13 years of age, without the affirmative consent of the consumer’s parent or guardian.

The Act defines “personal information” broadly as any information that identifies or can be used to identify a consumer or their household, such as: records of products purchased, browser search histories, educational information, employment history, and IP addresses.

Public entities and most for-profit schools do not need to comply because the law only applies to: for-profits doing business in California, that: (a) have annual gross revenues in excess of \$25 million; *or* (b) receive or disclose the personal information of 50,000 or more Californians; *or* (c) derive 50 percent or more of their annual revenues from selling California residents’ personal information.

However, when contracting with covered companies, public entities and schools will want to ensure that the obligations and risks of the law rest squarely with the for-profit business. Those risks are real. The Attorney General has enforcement authority over the act. Consumers may bring class actions against non-compliant companies that allow sensitive consumer personal information to be stolen or wrongfully disclosed. In these cases, consumers may seek statutory damages between \$100 and \$750 per California resident per incident.

(AB 618 amends Sections 20219.21, 20919.23, and 20919.24 of, and adds and repeals Article 41.5 (commencing with Section 20665.20) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code.)

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