

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Lowenthal

February 22, 2013

An act to repeal and add Section 1798.83 to the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as introduced, Lowenthal. Privacy: disclosure of a customer's personal information.

(1) Existing law requires a business to ensure the privacy of a customer's personal information, as defined, contained in records by destroying, or arranging for the destruction of, the records, as specified. Any customer injured by a business' violation of these provisions is entitled to recover damages, obtain injunctive relief, or seek other remedies.

This bill would repeal and reorganize certain provisions of existing law.

(2) Existing law also requires a business that collects customer information for marketing purposes and that discloses a customer's personal information to a 3rd party for direct marketing purposes, to provide the customer with whom it had a business relationship, as defined, within 30 days after the customer's request, as specified, in writing or by e-mail, the names and addresses of the recipients of that information and specified details regarding the information disclosed, except as specified. Existing law requires a business subject to these provisions to provide an address, electronic address, or toll-free telephone or facsimile number that a customer may use to deliver requests for copies of his or her personal information.

This bill would instead require any business that has a customer’s personal information, as defined, to provide at no charge, within 30 days of the customer’s specified request, a copy of that information to the customer as well as the names and contact information for all 3rd parties with which the business has shared the information during the previous 12 months, regardless of any business relationship with the customer. This bill would require that a business subject to these provisions choose one of several specified options to provide the customer with a designated address for use in making a request for copies of information under these provisions.

(3) Existing law also requires a business that is required to comply with these provisions to provide information to customers regarding its privacy policy and to provide a designated means of preventing disclosure of personal information.

This bill would require a business that is required to comply with these provisions to provide specified notice to the customer of its privacy policies.

(4) Existing law provides that a customer who sustains injury as a result of a violation of these provisions is entitled to specified remedies, including civil penalties.

This bill would also provide that a violation of these provisions is deemed to constitute an injury to the customer for purposes of seeking remedies available under law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.83 of the Civil Code is repealed.
 2 ~~1798.83.—(a) Except as otherwise provided in subdivision (d),~~
 3 ~~if a business has an established business relationship with a~~
 4 ~~customer and has within the immediately preceding calendar year~~
 5 ~~disclosed personal information that corresponds to any of the~~
 6 ~~categories of personal information set forth in paragraph (6) of~~
 7 ~~subdivision (e) to third parties, and if the business knows or~~
 8 ~~reasonably should know that the third parties used the personal~~
 9 ~~information for the third parties’ direct marketing purposes, that~~
 10 ~~business shall, after the receipt of a written or electronic mail~~
 11 ~~request, or, if the business chooses to receive requests by toll-free~~
 12 ~~telephone or facsimile numbers, a telephone or facsimile request~~

1 from the customer, provide all of the following information to the
2 customer free of charge:

3 (1) ~~In writing or by electronic mail, a list of the categories set~~
4 ~~forth in paragraph (6) of subdivision (e) that correspond to the~~
5 ~~personal information disclosed by the business to third parties for~~
6 ~~the third parties' direct marketing purposes during the immediately~~
7 ~~preceding calendar year.~~

8 (2) ~~In writing or by electronic mail, the names and addresses of~~
9 ~~all of the third parties that received personal information from the~~
10 ~~business for the third parties' direct marketing purposes during~~
11 ~~the preceding calendar year and, if the nature of the third parties'~~
12 ~~business cannot reasonably be determined from the third parties'~~
13 ~~name, examples of the products or services marketed, if known to~~
14 ~~the business, sufficient to give the customer a reasonable indication~~
15 ~~of the nature of the third parties' business.~~

16 (b) (1) ~~A business required to comply with this section shall~~
17 ~~designate a mailing address, electronic mail address, or, if the~~
18 ~~business chooses to receive requests by telephone or facsimile, a~~
19 ~~toll-free telephone or facsimile number, to which customers may~~
20 ~~deliver requests pursuant to subdivision (a). A business required~~
21 ~~to comply with this section shall, at its election, do at least one of~~
22 ~~the following:~~

23 (A) ~~Notify all agents and managers who directly supervise~~
24 ~~employees who regularly have contact with customers of the~~
25 ~~designated addresses or numbers or the means to obtain those~~
26 ~~addresses or numbers and instruct those employees that customers~~
27 ~~who inquire about the business's privacy practices or the business's~~
28 ~~compliance with this section shall be informed of the designated~~
29 ~~addresses or numbers or the means to obtain the addresses or~~
30 ~~numbers.~~

31 (B) ~~Add to the home page of its Web site a link either to a page~~
32 ~~titled "Your Privacy Rights" or add the words "Your Privacy~~
33 ~~Rights" to the home page's link to the business's privacy policy.~~
34 ~~If the business elects to add the words "Your Privacy Rights" to~~
35 ~~the link to the business's privacy policy, the words "Your Privacy~~
36 ~~Rights" shall be in the same style and size as the link to the~~
37 ~~business's privacy policy. If the business does not display a link~~
38 ~~to its privacy policy on the home page of its Web site, or does not~~
39 ~~have a privacy policy, the words "Your Privacy Rights" shall be~~
40 ~~written in larger type than the surrounding text, or in contrasting~~

1 type, font, or color to the surrounding text of the same size, or set
2 off from the surrounding text of the same size by symbols or other
3 marks that call attention to the language. The first page of the link
4 shall describe a customer's rights pursuant to this section and shall
5 provide the designated mailing address, e-mail address, as required,
6 or toll-free telephone number or facsimile number, as appropriate.
7 If the business elects to add the words "Your California Privacy
8 Rights" to the home page's link to the business's privacy policy
9 in a manner that complies with this subdivision, and the first page
10 of the link describes a customer's rights pursuant to this section,
11 and provides the designated mailing address, electronic mailing
12 address, as required, or toll-free telephone or facsimile number,
13 as appropriate, the business need not respond to requests that are
14 not received at one of the designated addresses or numbers.

15 ~~(C) Make the designated addresses or numbers, or means to~~
16 ~~obtain the designated addresses or numbers, readily available upon~~
17 ~~request of a customer at every place of business in California where~~
18 ~~the business or its agents regularly have contact with customers.~~

19 ~~The response to a request pursuant to this section received at~~
20 ~~one of the designated addresses or numbers shall be provided~~
21 ~~within 30 days. Requests received by the business at other than~~
22 ~~one of the designated addresses or numbers shall be provided~~
23 ~~within a reasonable period, in light of the circumstances related~~
24 ~~to how the request was received, but not to exceed 150 days from~~
25 ~~the date received.~~

26 ~~(2) A business that is required to comply with this section and~~
27 ~~Section 6803 of Title 15 of the United States Code may comply~~
28 ~~with this section by providing the customer the disclosure required~~
29 ~~by Section 6803 of Title 15 of the United States Code, but only if~~
30 ~~the disclosure also complies with this section.~~

31 ~~(3) A business that is required to comply with this section is not~~
32 ~~obligated to provide information associated with specific~~
33 ~~individuals and may provide the information required by this~~
34 ~~section in standardized format.~~

35 ~~(e) (1) A business that is required to comply with this section~~
36 ~~is not obligated to do so in response to a request from a customer~~
37 ~~more than once during the course of any calendar year. A business~~
38 ~~with fewer than 20 full-time or part-time employees is exempt~~
39 ~~from the requirements of this section.~~

1 ~~(2) If a business that is required to comply with this section~~
2 ~~adopts and discloses to the public, in its privacy policy, a policy~~
3 ~~of not disclosing personal information of customers to third parties~~
4 ~~for the third parties' direct marketing purposes unless the customer~~
5 ~~first affirmatively agrees to that disclosure, or of not disclosing~~
6 ~~the personal information of customers to third parties for the third~~
7 ~~parties' direct marketing purposes if the customer has exercised~~
8 ~~an option that prevents that information from being disclosed to~~
9 ~~third parties for those purposes, as long as the business maintains~~
10 ~~and discloses the policies, the business may comply with~~
11 ~~subdivision (a) by notifying the customer of his or her right to~~
12 ~~prevent disclosure of personal information, and providing the~~
13 ~~customer with a cost-free means to exercise that right.~~

14 ~~(d) The following are among the disclosures not deemed to be~~
15 ~~disclosures of personal information by a business for a third party's~~
16 ~~direct marketing purposes for purposes of this section:~~

17 ~~(1) Disclosures between a business and a third party pursuant~~
18 ~~to contracts or arrangements pertaining to any of the following:~~

19 ~~(A) The processing, storage, management, or organization of~~
20 ~~personal information, or the performance of services on behalf of~~
21 ~~the business during which personal information is disclosed, if the~~
22 ~~third party that processes, stores, manages, or organizes the~~
23 ~~personal information does not use the information for a third party's~~
24 ~~direct marketing purposes and does not disclose the information~~
25 ~~to additional third parties for their direct marketing purposes.~~

26 ~~(B) Marketing products or services to customers with whom~~
27 ~~the business has an established business relationship where, as a~~
28 ~~part of the marketing, the business does not disclose personal~~
29 ~~information to third parties for the third parties' direct marketing~~
30 ~~purposes.~~

31 ~~(C) Maintaining or servicing accounts, including credit accounts~~
32 ~~and disclosures pertaining to the denial of applications for credit~~
33 ~~or the status of applications for credit and processing bills or~~
34 ~~insurance claims for payment.~~

35 ~~(D) Public record information relating to the right, title, or~~
36 ~~interest in real property or information relating to property~~
37 ~~characteristics, as defined in Section 408.3 of the Revenue and~~
38 ~~Taxation Code, obtained from a governmental agency or entity or~~
39 ~~from a multiple listing service, as defined in Section 1087, and not~~

1 provided directly by the customer to a business in the course of
2 an established business relationship.

3 (E) Jointly offering a product or service pursuant to a written
4 agreement with the third party that receives the personal
5 information, provided that all of the following requirements are
6 met:

7 (i) The product or service offered is a product or service of, and
8 is provided by, at least one of the businesses that is a party to the
9 written agreement.

10 (ii) The product or service is jointly offered, endorsed, or
11 sponsored by, and clearly and conspicuously identifies for the
12 customer, the businesses that disclose and receive the disclosed
13 personal information.

14 (iii) The written agreement provides that the third party that
15 receives the personal information is required to maintain the
16 confidentiality of the information and is prohibited from disclosing
17 or using the information other than to carry out the joint offering
18 or servicing of a product or service that is the subject of the written
19 agreement.

20 (2) Disclosures to or from a consumer reporting agency of a
21 customer's payment history or other information pertaining to
22 transactions or experiences between the business and a customer
23 if that information is to be reported in, or used to generate, a
24 consumer report as defined in subdivision (d) of Section 1681a of
25 Title 15 of the United States Code, and use of that information is
26 limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec.
27 1681 et seq.):

28 (3) Disclosures of personal information by a business to a third
29 party financial institution solely for the purpose of the business
30 obtaining payment for a transaction in which the customer paid
31 the business for goods or services with a check, credit card, charge
32 card, or debit card, if the customer seeks the information required
33 by subdivision (a) from the business obtaining payment, whether
34 or not the business obtaining payment knows or reasonably should
35 know that the third party financial institution has used the personal
36 information for its direct marketing purposes.

37 (4) Disclosures of personal information between a licensed agent
38 and its principal, if the personal information disclosed is necessary
39 to complete, effectuate, administer, or enforce transactions between
40 the principal and the agent, whether or not the licensed agent or

1 principal also uses the personal information for direct marketing
2 purposes, if that personal information is used by each of them
3 solely to market products and services directly to customers with
4 whom both have established business relationships as a result of
5 the principal and agent relationship.

6 ~~(5) Disclosures of personal information between a financial
7 institution and a business that has a private label credit card, affinity
8 card, retail installment contract, or cobranded card program with
9 the financial institution, if the personal information disclosed is
10 necessary for the financial institution to maintain or service
11 accounts on behalf of the business with which it has a private label
12 credit card, affinity card, retail installment contract, or cobranded
13 card program, or to complete, effectuate, administer, or enforce
14 customer transactions or transactions between the institution and
15 the business, whether or not the institution or the business also
16 uses the personal information for direct marketing purposes, if that
17 personal information is used solely to market products and services
18 directly to customers with whom both the business and the financial
19 institution have established business relationships as a result of
20 the private label credit card, affinity card, retail installment
21 contract, or cobranded card program.~~

22 (e) For purposes of this section, the following terms have the
23 following meanings:

24 (1) ~~“Customer” means an individual who is a resident of
25 California who provides personal information to a business during
26 the creation of, or throughout the duration of, an established
27 business relationship if the business relationship is primarily for
28 personal, family, or household purposes.~~

29 (2) ~~“Direct marketing purposes” means the use of personal
30 information to solicit or induce a purchase, rental, lease, or
31 exchange of products, goods, property, or services directly to
32 individuals by means of the mail, telephone, or electronic mail for
33 their personal, family, or household purposes. The sale, rental,
34 exchange, or lease of personal information for consideration to
35 businesses is a direct marketing purpose of the business that sells,
36 rents, exchanges, or obtains consideration for the personal
37 information. “Direct marketing purposes” does not include the use
38 of personal information (A) by bona fide tax exempt charitable or
39 religious organizations to solicit charitable contributions, (B) to
40 raise funds from and communicate with individuals regarding~~

1 politics and government, (C) by a third party when the third party
2 receives personal information solely as a consequence of having
3 obtained for consideration permanent ownership of accounts that
4 might contain personal information, or (D) by a third party when
5 the third party receives personal information solely as a
6 consequence of a single transaction where, as a part of the
7 transaction, personal information had to be disclosed in order to
8 effectuate the transaction:

9 (3) “Disclose” means to disclose, release, transfer, disseminate,
10 or otherwise communicate orally, in writing, or by electronic or
11 any other means to any third party.

12 (4) “Employees who regularly have contact with customers”
13 means employees whose contact with customers is not incidental
14 to their primary employment duties, and whose duties do not
15 predominantly involve ensuring the safety or health of the
16 business’s customers. It includes, but is not limited to, employees
17 whose primary employment duties are as cashier, clerk, customer
18 service, sales, or promotion. It does not, by way of example,
19 include employees whose primary employment duties consist of
20 food or beverage preparation or service, maintenance and repair
21 of the business’s facilities or equipment, direct involvement in the
22 operation of a motor vehicle, aircraft, watercraft, amusement ride,
23 heavy machinery or similar equipment, security, or participation
24 in a theatrical, literary, musical, artistic, or athletic performance
25 or contest.

26 (5) “Established business relationship” means a relationship
27 formed by a voluntary, two-way communication between a
28 business and a customer, with or without an exchange of
29 consideration, for the purpose of purchasing, renting, or leasing
30 real or personal property, or any interest therein, or obtaining a
31 product or service from the business, if the relationship is ongoing
32 and has not been expressly terminated by the business or the
33 customer, or if the relationship is not ongoing, but is solely
34 established by the purchase, rental, or lease of real or personal
35 property from a business, or the purchase of a product or service,
36 and no more than 18 months have elapsed from the date of the
37 purchase, rental, or lease.

38 (6) (A) The categories of personal information required to be
39 disclosed pursuant to paragraph (1) of subdivision (a) are all of
40 the following:

- 1 ~~(i) Name and address.~~
- 2 ~~(ii) Electronic mail address.~~
- 3 ~~(iii) Age or date of birth.~~
- 4 ~~(iv) Names of children.~~
- 5 ~~(v) Electronic mail or other addresses of children.~~
- 6 ~~(vi) Number of children.~~
- 7 ~~(vii) The age or gender of children.~~
- 8 ~~(viii) Height.~~
- 9 ~~(ix) Weight.~~
- 10 ~~(x) Race.~~
- 11 ~~(xi) Religion.~~
- 12 ~~(xii) Occupation.~~
- 13 ~~(xiii) Telephone number.~~
- 14 ~~(xiv) Education.~~
- 15 ~~(xv) Political party affiliation.~~
- 16 ~~(xvi) Medical condition.~~
- 17 ~~(xvii) Drugs, therapies, or medical products or equipment used.~~
- 18 ~~(xviii) The kind of product the customer purchased, leased, or~~
- 19 ~~rented.~~
- 20 ~~(xix) Real property purchased, leased, or rented.~~
- 21 ~~(xx) The kind of service provided.~~
- 22 ~~(xxi) Social security number.~~
- 23 ~~(xxii) Bank account number.~~
- 24 ~~(xxiii) Credit card number.~~
- 25 ~~(xxiv) Debit card number.~~
- 26 ~~(xxv) Bank or investment account, debit card, or credit card~~
- 27 ~~balance.~~
- 28 ~~(xxvi) Payment history.~~
- 29 ~~(xxvii) Information pertaining to the customer's~~
- 30 ~~creditworthiness, assets, income, or liabilities.~~
- 31 ~~(B) If a list, description, or grouping of customer names or~~
- 32 ~~addresses is derived using any of these categories, and is disclosed~~
- 33 ~~to a third party for direct marketing purposes in a manner that~~
- 34 ~~permits the third party to identify, determine, or extrapolate any~~
- 35 ~~other personal information from which the list was derived, and~~
- 36 ~~that personal information when it was disclosed identified,~~
- 37 ~~described, or was associated with an individual, the categories set~~
- 38 ~~forth in this subdivision that correspond to the personal information~~
- 39 ~~used to derive the list, description, or grouping shall be considered~~
- 40 ~~personal information for purposes of this section.~~

- 1 ~~(7) “Personal information” as used in this section means any~~
2 ~~information that when it was disclosed identified, described, or~~
3 ~~was able to be associated with an individual and includes all of~~
4 ~~the following:~~
- 5 ~~(A) An individual’s name and address.~~
 - 6 ~~(B) Electronic mail address.~~
 - 7 ~~(C) Age or date of birth.~~
 - 8 ~~(D) Names of children.~~
 - 9 ~~(E) Electronic mail or other addresses of children.~~
 - 10 ~~(F) Number of children.~~
 - 11 ~~(G) The age or gender of children.~~
 - 12 ~~(H) Height.~~
 - 13 ~~(I) Weight.~~
 - 14 ~~(J) Race.~~
 - 15 ~~(K) Religion.~~
 - 16 ~~(L) Occupation.~~
 - 17 ~~(M) Telephone number.~~
 - 18 ~~(N) Education.~~
 - 19 ~~(O) Political party affiliation.~~
 - 20 ~~(P) Medical condition.~~
 - 21 ~~(Q) Drugs, therapies, or medical products or equipment used.~~
 - 22 ~~(R) The kind of product the customer purchased, leased, or~~
23 ~~rented.~~
 - 24 ~~(S) Real property purchased, leased, or rented.~~
 - 25 ~~(T) The kind of service provided.~~
 - 26 ~~(U) Social security number.~~
 - 27 ~~(V) Bank account number.~~
 - 28 ~~(W) Credit card number.~~
 - 29 ~~(X) Debit card number.~~
 - 30 ~~(Y) Bank or investment account, debit card, or credit card~~
31 ~~balance.~~
 - 32 ~~(Z) Payment history.~~
 - 33 ~~(AA) Information pertaining to creditworthiness, assets, income,~~
34 ~~or liabilities.~~
- 35 ~~(8) “Third party” or “third parties” means one or more of the~~
36 ~~following:~~
- 37 ~~(A) A business that is a separate legal entity from the business~~
38 ~~that has an established business relationship with a customer.~~
 - 39 ~~(B) A business that has access to a database that is shared among~~
40 ~~businesses, if the business is authorized to use the database for~~

1 direct marketing purposes, unless the use of the database is exempt
2 from being considered a disclosure for direct marketing purposes
3 pursuant to subdivision (d).

4 ~~(C) A business not affiliated by a common ownership or
5 common corporate control with the business required to comply
6 with subdivision (a).~~

7 ~~(f) (1) Disclosures of personal information for direct marketing
8 purposes between affiliated third parties that share the same brand
9 name are exempt from the requirements of paragraph (1) of
10 subdivision (a) unless the personal information disclosed
11 corresponds to one of the following categories, in which case the
12 customer shall be informed of those categories listed in this
13 subdivision that correspond to the categories of personal
14 information disclosed for direct marketing purposes and the third
15 party recipients of personal information disclosed for direct
16 marketing purposes pursuant to paragraph (2) of subdivision (a):~~

17 ~~(A) Number of children.~~

18 ~~(B) The age or gender of children.~~

19 ~~(C) Electronic mail or other addresses of children.~~

20 ~~(D) Height.~~

21 ~~(E) Weight.~~

22 ~~(F) Race.~~

23 ~~(G) Religion.~~

24 ~~(H) Telephone number.~~

25 ~~(I) Medical condition.~~

26 ~~(J) Drugs, therapies, or medical products or equipment used.~~

27 ~~(K) Social security number.~~

28 ~~(L) Bank account number.~~

29 ~~(M) Credit card number.~~

30 ~~(N) Debit card number.~~

31 ~~(O) Bank or investment account, debit card, or credit card
32 balance.~~

33 ~~(2) If a list, description, or grouping of customer names or
34 addresses is derived using any of these categories, and is disclosed
35 to a third party or third parties sharing the same brand name for
36 direct marketing purposes in a manner that permits the third party
37 to identify, determine, or extrapolate the personal information from
38 which the list was derived, and that personal information when it
39 was disclosed identified, described, or was associated with an
40 individual, any other personal information that corresponds to the~~

1 categories set forth in this subdivision used to derive the list,
2 description, or grouping shall be considered personal information
3 for purposes of this section.

4 (3) If a business discloses personal information for direct
5 marketing purposes to affiliated third parties that share the same
6 brand name, the business that discloses personal information for
7 direct marketing purposes between affiliated third parties that share
8 the same brand name may comply with the requirements of
9 paragraph (2) of subdivision (a) by providing the overall number
10 of affiliated companies that share the same brand name.

11 (g) The provisions of this section are severable. If any provision
12 of this section or its application is held invalid, that invalidity shall
13 not affect other provisions or applications that can be given effect
14 without the invalid provision or application.

15 (h) This section does not apply to a financial institution that is
16 subject to the California Financial Information Privacy Act
17 (Division 1.2 (commencing with Section 4050) of the Financial
18 Code) if the financial institution is in compliance with Sections
19 4052, 4052.5, 4053, 4053.5, and 4054.6 of the Financial Code, as
20 those sections read when they were chaptered on August 28, 2003,
21 and as subsequently amended by the Legislature or by initiative.

22 (i) This section shall become operative on January 1, 2005.

23 SEC. 2. Section 1798.83 is added to the Civil Code, to read:

24 1798.83. (a) (1) A business that has a customer's personal
25 information shall make available to the customer free of charge
26 access to, or copies of, all of the customer's personal information
27 held by the business.

28 (2) A business that has a customer's personal information and
29 discloses that personal information to a third party shall make the
30 following information available to the customer free of charge:

31 (A) All personal information that was disclosed, including the
32 categories set forth in paragraph (1) of subdivision (e).

33 (B) The names and contact information of all of the third parties
34 that received personal information from the business, including
35 the third party's designated request address or addresses if
36 available.

37 (b) A business required to comply with subdivision (a) shall
38 make the required information available by one or more of the
39 following means:

1 (1) By providing a designated request address and, upon receipt
2 of a request under this section to the designated request address,
3 providing the customer within 30 days the required information
4 for all disclosures occurring in the prior 12 months, provided that:

5 (A) If the business has an online privacy policy, that policy
6 includes a description of a customer’s rights pursuant to this section
7 accompanied by one or more designated request addresses. A
8 business with multiple online privacy policies must include a
9 description in the policy of each product or service that collects
10 personal information that may be disclosed to a third party.

11 (B) The business ensures that all persons responsible for
12 handling customer inquiries about the business’ privacy practices
13 or the business’ compliance with this section are informed of all
14 designated request addresses.

15 (C) The business provides information pertaining to the specific
16 customer if that information is reasonably available to the business,
17 and provides information in standardized format if information
18 pertaining to the specific customer is not reasonably available.

19 (2) For information required to be provided by paragraph (2)
20 of subdivision (a), by providing the customer with notice including
21 the required information prior to or immediately following a
22 disclosure.

23 (3) By providing the customer the disclosure required by Section
24 6803 of Title 15 of the United States Code, but only if the
25 disclosure also complies with this section.

26 (c) A business is not obligated to provide more than one notice
27 under paragraph (2) of subdivision (b) to the same customer in a
28 12-month period about the disclosure of the same personal
29 information to the same third party and is not obligated under
30 paragraph (1) of subdivision (b) to respond to a request by the
31 same customer more than once within a given 12-month period.

32 (d) A violation of this section by a business subject to these
33 provisions is deemed to constitute an injury to a customer.

34 (e) For purposes of this section, the following terms have the
35 following meanings:

36 (1) “Categories of personal information” includes, but is not
37 limited to, the following:

38 (A) Identity information including, but not limited to, real name,
39 alias, nickname, and user name.

- 1 (B) Address information, including, but not limited to, postal
2 address or e-mail.
- 3 (C) Telephone number.
- 4 (D) Account name.
- 5 (E) Social security number or other government-issued
6 identification number, including, but not limited to, social security
7 number, driver's license number, identification card number, and
8 passport number.
- 9 (F) Birthdate or age.
- 10 (G) Physical characteristic information, including, but not
11 limited to, height and weight.
- 12 (H) Sexual information, including, but not limited to, sexual
13 orientation, sex, gender status, gender identity, and gender
14 expression.
- 15 (I) Race or ethnicity.
- 16 (J) Religious affiliation or activity.
- 17 (K) Political affiliation or activity.
- 18 (L) Professional or employment-related information.
- 19 (M) Educational information.
- 20 (N) Medical information, including, but not limited to, medical
21 conditions or drugs, therapies, mental health, or medical products
22 or equipment used.
- 23 (O) Financial information, including, but not limited to, credit,
24 debit, or account numbers, account balances, payment history, or
25 information related to assets, liabilities, or general creditworthiness.
- 26 (P) Commercial information, including, but not limited to,
27 records of property, products or services provided, obtained, or
28 considered, or other purchasing or consuming histories or
29 tendencies.
- 30 (Q) Location information.
- 31 (R) Internet or mobile activity information, including, but not
32 limited to, Internet Protocol addresses or information concerning
33 the access or use of any Internet or mobile-based site or service.
- 34 (S) Content, including text, photographs, audio or video
35 recordings, or other material generated by or provided by the
36 customer.
- 37 (T) Any of the above categories of information as they pertain
38 to the children of the customer.
- 39 (2) (A) "Customer" means an individual who is a resident of
40 California who provides personal information to a business, with

1 or without an exchange of consideration, in the course of
2 purchasing, viewing, accessing, renting, leasing, or otherwise using
3 real or personal property, or any interest therein, or obtaining a
4 product or service from the business including advertising or any
5 other content.

6 (B) An individual is also the customer of a business if that
7 business obtained the personal information of that individual from
8 any other business.

9 (3) “Designated request address” means a mailing address,
10 e-mail address, Web page, toll-free telephone number, or other
11 applicable contact information, whereby customers may request
12 or obtain the information required to be provided under subdivision
13 (a).

14 (4) (A) “Disclose” means to disclose, release, share, transfer,
15 disseminate, make available, or otherwise communicate orally, in
16 writing, or by electronic or any other means to any third party as
17 defined in this section.

18 (B) “Disclose” does not include:

19 (i) Disclosure of personal information by a business to a third
20 party pursuant to a written contract authorizing the third party to
21 utilize the personal information to perform services on behalf of
22 the business, including maintaining or servicing accounts,
23 providing customer service, processing or fulfilling orders and
24 transactions, verifying customer information, processing payments,
25 providing financing, or similar services, but only if (I) the contract
26 prohibits the third party from using the personal information for
27 any reason other than performing the specified service(s) on behalf
28 of the business and from disclosing any such personal information
29 to additional third parties and (II) the business effectively enforces
30 these prohibitions.

31 (ii) Disclosure of personal information by a business to a third
32 party based on a good-faith belief that disclosure is required to
33 comply with applicable law, regulation, legal process, or court
34 order.

35 (iii) Disclosure of personal information by a business to a third
36 party that is reasonably necessary to address fraud, security, or
37 technical issues; to protect the disclosing business’s rights or
38 property; or to protect customers or the public from illegal activities
39 as required or permitted by law.

- 1 (iv) Disclosure of personal information by a business to a third
2 party that is otherwise lawfully available to the general public,
3 provided that the business did not direct the third party to the
4 personal information.
- 5 (5) “Personal information” means:
 - 6 (A) Any information that identifies or references a particular
7 individual or electronic device, including, but not limited to, a real
8 name, alias, postal address, telephone number, electronic mail
9 address, Internet Protocol address, account name, social security
10 number, driver’s license number, passport number, or any other
11 identifier intended or able to be uniquely associated with a
12 particular individual or device.
 - 13 (B) Any information that relates to or describes an individual,
14 including, but not limited to, any information specifically listed
15 in subdivision (e) of Section 1798.80 of the Civil Code, and
16 including inferences or conclusions drawn from other information,
17 if such information is disclosed in connection with any identifying
18 or referencing information as defined in subparagraph (A) above.
- 19 (6) “Third party” or “third parties” means one or more of the
20 following:
 - 21 (A) A business that is a separate legal entity from the business
22 that has disclosed personal information.
 - 23 (B) A business that does not share common ownership or
24 common corporate control with the business that has disclosed
25 personal information.
 - 26 (C) A business that does not share a brand name or common
27 branding with the business that has disclosed personal information
28 such that the affiliate relationship is clear to the customer.
- 29 (f) The provisions of this section are severable. If any provision
30 of this section or its application is held invalid, that invalidity shall
31 not affect other provisions or applications that can be given effect
32 without the invalid provision or application.