

The California Privacy Rights Act (CPRA)

California's CPRA ballot initiative passed in November 2020, amending and expanding the existing California Consumer Privacy Act (CCPA).



What Rights Does the CPRA Give California Residents?

The CPRA expands California consumers' rights under the CCPA and introduces some new privacy rights:

» Right to opt out of sharing of personal information

"Sharing" is defined as "sharing...or otherwise communicating orally, in writing, or by electronic or other means, a consumer's personal information by the business to a third party for cross-context behavioral advertising, whether or not for monetary or other valuable consideration," which essentially refers to interest-based advertising.

» Right to opt out of certain uses and disclosures of "sensitive personal information"

- A consumer's Social Security number
- Driver's license
- State ID card or passport number
- A consumer's account log-in
- Financial account, debit card, or credit card number in combination with a security or access code, password, or credentials
- A consumer's precise geolocation
- A consumer's racial or ethnic origin
- Religious or philosophical beliefs, or union membership
- Contents of a consumer's email and text messages, unless the business is the intended recipient of the communications
- A consumer's genetic data
- A consumer's biometric data, in certain circumstances
- A consumer's health data
- Data concerning a consumer's sex life or sexual orientation

» Right to correct inaccurate personal information

» Right to enhanced transparency about a business's information practices

» Authorizes new regulations that will provide new rights with regard to automated decision-making



Clarified and Increased Obligations on Businesses

The CPRA applies to for-profit entities doing business in California, collecting personal information from California consumers, and meeting any of certain threshold criteria. These threshold requirements have changed as of January 1, 2021.

If any of the criteria below are satisfied, the company will be a "business" under the CPRA.

\$25 MILLION Companies exceeding \$25 million in gross revenue in the preceding calendar year.

100,000 OR MORE Companies buying, selling, or sharing the personal information of 100,000 or more consumers or households.

50% OR MORE Companies deriving 50% or more of their annual revenue from selling or sharing consumers' personal information.

Increased Obligations on Businesses

- » Requirements related to data retention, data minimization, purpose limitation, and to pass deletion requests to service providers, contractors, and third parties to which the businesses have sold or shared information.
- » Mandates additional provisions that businesses must include in contracts with service providers, contractors, and other third parties. The regulations may increase auditing requirements, such as performing annual cybersecurity audits, providing the new enforcement agency with regular risk assessments.
- » Clarifies the law's impact on loyalty programs and extends the CCPA's sunset provisions involving employee and business-to-business exceptions.



Rulemaking, Enforcement, and Penalties

The CPRA is subject to 22 different categories of regulations, many with subparts, and final regulations must be adopted by July 1, 2022. Given ongoing rulemaking activity, businesses need to remain flexible and shift compliance strategies accordingly.

- » The CPRA creates and transfers all rulemaking and enforcement authority from the California attorney general to the new state agency, the California Privacy Protection Agency, as soon as July 1, 2021.
- » The CPRA tightens enforcement, removing the 30-day cure period and tripling penalties for violations involving minors under 16. The law also expands the types of data breaches that are considered within the scope of the data breach private right of action.

When Will Enforcement Begin?

JULY 1, 2023 The CPRA may be enforced beginning on July 1, 2023, for violations that occur on or after that date.

For more information, visit PerkinsCoie.com/CPRA.