

California Civil Code
S.B. 362 (2023) (Ch. 709)
Delete Act (Redline to 2022 law)
§ 1798.99.80. Definitions

For purposes of this title:

(a) ~~“Business” has the meaning provided in subdivision (d) of Section 1798.140. The definitions in Section 1798.140 shall apply unless otherwise specified in this title.~~

(b) ~~“Collects” and “collection” have the meaning provided in subdivision (f) of Section 1798.140. “Authorized agent” has the same meaning as used in Chapter 1 (commencing with Section 7000) of Division 6 of Title 11 of the California Code of Regulations.~~

(c) ~~“Consumer” has the meaning provided in subdivision (i) of Section 1798.140.~~ “Data broker” means a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship. “Data broker” does not include any of the following:

(1) ~~A consumer reporting agency~~ An entity to the extent that it is covered by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(2) ~~A consumer reporting agency~~ An entity to the extent that it is covered by the Gramm-Leach-Bliley Act (Public Law 106-102) and implementing regulations.

(3) An entity to the extent that it is covered by the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code).

(4) An entity, or a business associate of a covered entity, to the extent their processing of personal information is exempt under Section 1798.146. For purposes of this paragraph, “business associate” and “covered entity” have the same meanings as defined in Section 1798.146.

~~(e) “Personal information” has the meaning provided in subdivision (v) of Section 1798.140.~~

~~(f) “Sell” has the meaning provided in subdivision (ad) of Section 1798.140.~~

~~(g) “Third party” has the meaning provided in subdivision (ai) of Section 1798.140.~~

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§ 1798.99.81. Data Brokers' Registry Fund

A fund to be known as the "Data Brokers' Registry Fund" is hereby created within the State Treasury. The fund shall be administered by the California Privacy Protection Agency. All ~~registration fees received pursuant to paragraph (1) of subdivision (b) of Section 1798.99.82~~ moneys collected or received by the California Privacy Protection Agency and the Department of Justice under this title shall be deposited into the Data Brokers' Registry Fund, to be available for expenditure by the ~~Department of Justice~~ California Privacy Protection Agency, upon appropriation by the Legislature, to offset ~~costs~~ all of the following costs:

(a) The reasonable costs of establishing and maintaining the informational internet website described in Section 1798.99.84.

(b) The costs incurred by the state courts and the California Privacy Protection Agency in connection with enforcing this title, as specified in Section 1798.99.82.

(c) The reasonable costs of establishing, maintaining, and providing access to the accessible deletion mechanism described in Section 1798.99.86.

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§ 1798.99.82. Annual registration; Fees; Penalties

(a) On or before January 31 following each year in which a business meets the definition of data broker as provided in this title, the business shall register with the ~~Attorney General~~ *California Privacy Protection Agency* pursuant to the requirements of this section.

(b) In registering with the ~~Attorney General~~, *California Privacy Protection Agency*, as described in subdivision (a), a data broker shall do all of the following:

(1) Pay a registration fee in an amount determined by the ~~Attorney General~~, *California Privacy Protection Agency*, not to exceed the reasonable costs of establishing and maintaining the informational internet website described in Section ~~1798.99.84~~ *1798.99.84 and the reasonable costs of establishing, maintaining, and providing access to the accessible deletion mechanism described in Section 1798.99.86*. Registration fees shall be deposited in the Data Brokers' Registry Fund, created within the State Treasury pursuant to Section 1798.99.81, and used for the purposes outlined in this paragraph.

(2) Provide the following information:

(A) The name of the data broker and its primary physical, email, and internet website addresses.

(B) The metrics compiled pursuant to paragraphs (1) and (2) of subdivision (a) of Section 1798.99.85.

(C) Whether the data broker collects the personal information of minors.

(D) Whether the data broker collects consumers' precise geolocation.

(E) Whether the data broker collects consumers' reproductive health care data.

(F) Beginning January 1, 2029, whether the data broker has undergone an audit as described in subdivision (e) of Section 1798.99.86, and, if so, the most recent year that the data broker has submitted a report resulting from the audit and any related materials to the California Privacy Protection Agency.

(G) A link to a page on the data broker's internet website that does both of the following:

(i) Details how consumers may exercise their privacy rights by doing all of the following:

(I) Deleting personal information, as described in Section 1798.105.

(II) Correcting inaccurate personal information, as described in Section 1798.106.

(III) Learning what personal information is being collected and how to access that personal information, as described in Section 1798.110.

(IV) Learning what personal information is being sold or shared and to whom, as described in Section 1798.115.

(V) Learning how to opt out of the sale or sharing of personal information, as described in Section 1798.120.

(VI) Learning how to limit the use and disclosure of sensitive personal information, as described in Section 1798.121.

(ii) Does not make use of any dark patterns.

(H) Whether and to what extent the data broker or any of its subsidiaries is regulated by any of the following:

(i) The federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(ii) The Gramm-Leach-Bliley Act (Public Law 106-102) and implementing regulations.

(iii) The Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code).

(iv) The Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1) or the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

~~(B)~~ (I) Any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(c) A data broker that fails to register as required by this section is ~~subject to injunction and is liable for civil penalties, fees, liable for administrative fines~~ and costs in an ~~action brought in the name of the people of the State of California by the Attorney General~~ administrative action brought by the California Privacy Protection Agency as follows:

- (1) ~~A civil penalty of one~~ An administrative fine of two hundred dollars ~~(\$100) (\$200)~~ for each day the data broker fails to register as required by this section.
- (2) An amount equal to the fees that were due during the period it failed to register.
- (3) Expenses incurred by the ~~Attorney General~~ California Privacy Protection Agency in the investigation and ~~prosecution~~ administration of the action as the court deems appropriate.

(d) A data broker required to register under this title that fails to comply with the requirements of Section 1798.99.86 is liable for administrative fines and costs in an administrative action brought by the California Privacy Protection Agency as follows:

- (1) An administrative fine of two hundred dollars (\$200) for each deletion request for each day the data broker fails to delete information as required by Section 1798.99.86.
- (2) Reasonable expenses incurred by the California Privacy Protection Agency in the investigation and administration of the action.

~~(d)~~ (e) Any penalties, fines, fees, and expenses recovered in an action prosecuted under subdivision (c) or (d) shall be deposited in the ~~Consumer Privacy Data Brokers' Registry~~ Fund, created within the ~~General Fund~~ State Treasury pursuant to ~~subdivision (a) of Section 1798.160, Section 1798.99.81,~~ with the intent that they be used to fully offset costs incurred by the state courts and the ~~Attorney General~~ California Privacy Protection Agency in connection with this title.

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[§ 1798.99.84. Information on California Privacy Protection Agency website](#)

The ~~Attorney General~~ [California Privacy Protection Agency](#) shall create a page on its internet website where the [registration](#) information provided by data brokers ~~under this title~~ [described in paragraph \(2\) of subdivision \(b\) of Section 1798.99.82 and the accessible deletion mechanism described in Section 1798.99.86](#) shall be accessible to the public.

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The Delete Act amended Sections 1798.99.80, 1798.99.81, 1798.99.82, and 1798.99.84 of, and added Sections 1798.99.85, 1798.99.86, 1798.99.87, and 1798.99.89 to, the Civil Code, relating to data brokers.