

AMENDED IN ASSEMBLY MAY 25, 2004
AMENDED IN ASSEMBLY MARCH 18, 2004
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1950

Introduced by Assembly Member Wiggins

February 11, 2004

An act to add Section 1798.81.5 to the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1950, as amended, Wiggins. Privacy: personal information.

Existing law regulates the handling of customer records and requires that a business take all reasonable steps to destroy a customer's records in its custody or control when they are no longer to be retained. Existing law requires a person or business that owns or licenses computerized data that include personal information, as defined, to disclose any breach of the security of its system, as specified.

This bill would require a business, other than specified entities, that obtains personal information *about a California resident* to implement and maintain ~~effective safeguards that ensure the security of the information, protect it against loss, and protect it reasonable security procedures and practices to protect personal information~~ from unauthorized ~~persons or entities~~ *access, destruction, use, modification, or disclosure*. The bill would also require ~~that~~ a business, ~~other than specified entities,~~ that discloses personal information to ~~an affiliate, supplier, a nonaffiliated supplier~~ or service provider, to require by contract that those entities ~~safeguard the information~~ *maintain reasonable security procedures*, as specified. The bill would provide

that a business that is subject to other laws providing greater protection to personal information in regard to subjects regulated by the bill shall be deemed in compliance with the bill’s requirements, as specified.

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 1798.81.5 is added to the Civil Code, to
2 read:

3 ~~1798.81.5. (a) A business, other than an entity described in~~
4 ~~subdivision (c), that obtains personal information shall implement~~
5 ~~and maintain effective safeguards that accomplish all of the~~
6 ~~following:~~

7 ~~(1) Ensure the security and confidentiality of the personal~~
8 ~~information.~~

9 ~~(2) Protect the personal information against loss.~~

10 ~~(3) Protect the personal information from access, destruction,~~
11 ~~use, modification, or disclosure by an unauthorized person or~~
12 ~~entity.~~

13 ~~(b) A business, other than an entity described in subdivision~~
14 ~~(c), that discloses personal information to an affiliate, supplier, or~~
15 ~~service provider, shall require by contract that the affiliate,~~
16 ~~supplier, or service provider, do all of the following:~~

17 ~~(1) Ensure the security and confidentiality of the personal~~
18 ~~information.~~

19 ~~(2) Protect the personal information against loss.~~

20 ~~(3) Protect the personal information from access, destruction,~~
21 ~~use, modification, or disclosure by an unauthorized person or~~
22 ~~entity.~~

23 ~~(e)~~

24 *1798.81.5. (a) A business that obtains personal information*
25 *about a California resident shall implement and maintain*
26 *reasonable security procedures and practices appropriate to the*
27 *nature of the information, to protect the personal information from*
28 *unauthorized access, destruction, use, modification, or disclosure.*

29 *(b) A business that discloses personal information about a*
30 *California resident to a nonaffiliated supplier or service provider*
31 *shall require by contract that the supplier or service provider*
32 *implement and maintain reasonable security procedures and*



1 *practices appropriate to the nature of the information, to protect*
2 *the personal information from unauthorized access, destruction,*
3 *use, modification, or disclosure.*

4 (c) (1) *For purposes of this section, “personal information”*
5 *means an individual’s first name or first initial and last name in*
6 *combination with any one or more of the following data elements,*
7 *when either the name or the data elements are not encrypted or*
8 *redacted: any information that identifies, relates to, describes, or*
9 *is capable of being associated with, a particular individual or his*
10 *or her activities, including, but not limited to, his or her signature,*
11 *social security number, medical information, physical*
12 *characteristics or description, address, telephone number,*
13 *passport number, driver’s license or state identification card*
14 *number, insurance policy number, education, employment,*
15 *employment history, bank account number, credit card number,*
16 *debit card number, or any other financial information.*

17 (2) *Personal information does not include publicly available*
18 *information that the business has a reasonable basis to believe is*
19 *lawfully made available to the general public from any of the*
20 *following:*

21 (A) *Federal, state, or local government records.*

22 (B) *Widely distributed media.*

23 (C) *Disclosures to the general public that are required to be*
24 *made by federal, state, or local law.*

25 (d) *The provisions of this section do not apply to any of the*
26 *following:*

27 (1) *A provider of health care, health care service plan, or*
28 *contractor regulated by the Confidentiality of Medical*
29 *Information Act (Part 2.6 (commencing with Section 56) of*
30 *Division 1).*

31 (2) *A financial institution as defined in Section 4052 of the*
32 *Financial Code.*

33 (3) *A covered entity governed by the medical privacy and*
34 *security rules issued by the federal Department of Health and*
35 *Human Services, Parts 160 and 164 of Title 45 of the Code of*
36 *Federal Regulations, established pursuant to the Health Insurance*
37 *Portability and Availability Act of 1996 (HIPAA).*

38 (4) *An entity that obtains information under an agreement*
39 *pursuant to Article 3 (commencing with Section 1800) of Chapter*



1 *1 of Division 2 of the Vehicle Code and is subject to the*
2 *confidentiality requirements of the Vehicle Code.*

3 ~~(d)~~

4 (e) If a business that is subject to this section is also regulated
5 by state or federal law providing greater protection to personal
6 information than that provided by this section in regard to the
7 subjects addressed by this section, then compliance with that state
8 or federal law shall be deemed compliance with this section with
9 regard to those subjects. This subdivision does not relieve a
10 business from a duty to comply with any other requirements of
11 other state and federal law regarding the protection and privacy of
12 personal information.

