



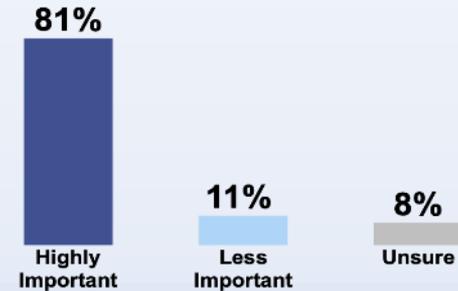
CALIFORNIA PRIVACY RIGHTS ACT

OF 2020

California Privacy Rights Act: Why Second Initiative?

- Send a strong signal to Congress

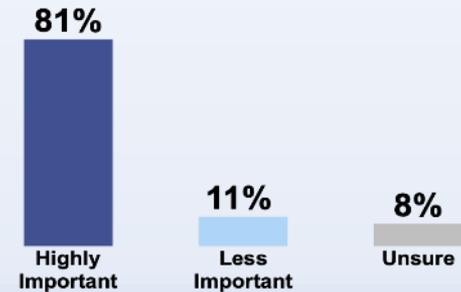
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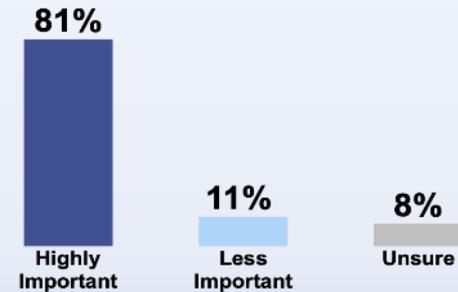
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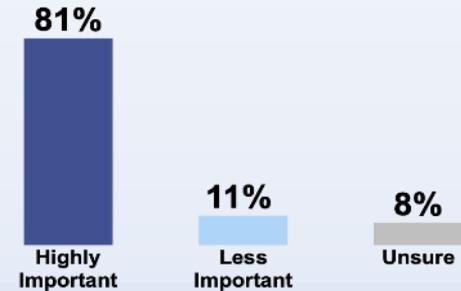
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California Privacy Rights Act: Why Second Initiative?

- Send a strong signal to Congress
- Establish new rights for Californians
- Address workability issues
- Protect Californians privacy into the future

Should Federal Law be as Strong as CCPA





CPRA Timeline

- Filed First Draft September 2019



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- **7-wk Discussion with Advocates, Privacy Experts, Academics, Regulators, Businesses**



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- **Filed Final Version 11/13/19, Began Collecting Signatures December**





CPRA: Major Privacy Enhancements

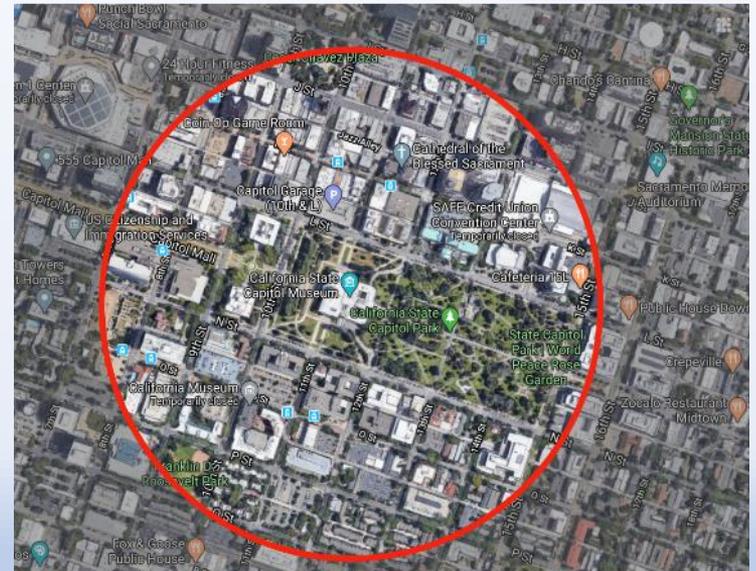
CPRA: Stop Use of Sensitive Personal Information

- **New ability to stop use of “Sensitive Personal Information”**
- *SSN, DL, Passport, financial account info, precise geolocation, race, ethnicity, religion, trade union membership, personal communications, genetic data, biometric or health information, information about sex life or sexual orientation.*

CPRA: Stop Precise geo-tracking

- Prevent Tracking < 1,850 feet, 247 acres

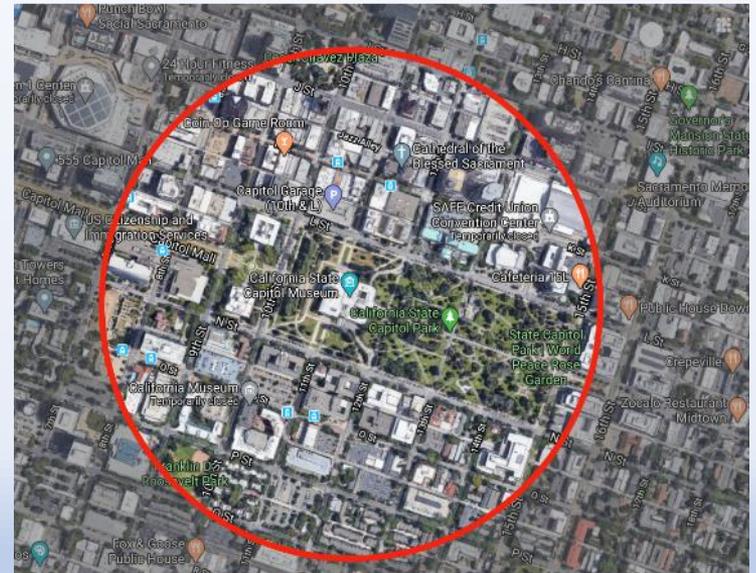
1/3 of a mile



CPRA: Stop Precise geo-tracking

- Prevent Tracking < 1,850 feet, 247 acres
- Allows Advertising, But Not Tracking

1/3 of a mile





CPRA: Creation of California Privacy Protection Agency

- **Funded from State's General Fund (\$10M p.a., indexed)**



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- Funded from State's General Fund (\$10M p.a., indexed)
- California [had an Office of Privacy Protection](#), Disbanded by Gov. Brown in 2012
- ~ [same number](#) of privacy staff as FTC has for the entire country (40)

CPRA: Other Privacy Enhancements

- Privacy Principles:
- Purpose Limitation
- Storage Limitation
- Data Minimization





CPRA: Other Privacy Enhancements

- **Right to Correct Your Information**



CPRA: Other Privacy Enhancements

- **Right to Correct Your Information**
- **Right to See ALL Your Info from 1/1/22, Not Just Last 12 Months'**



CPRA: Other Privacy Enhancements

- **Right to Correct Your Information**
- **Right to See ALL Your Info from 1/1/22, Not Just Last 12 Months'**
- **Removes the 30-day Cure Period for Enforcement in CCPA**

CPRA: Other Privacy Enhancements

- Triples penalties for violations of privacy rights of minors



CPRA: Other Privacy Enhancements

- Adds ‘Email + Password’ to Items Included in ‘Negligent Data Breach’



CPRA: Other Privacy Enhancements

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- High-Risk Businesses to Perform Annual Cybersecurity Audit



CPRA: Other Privacy Enhancements

- Adds ‘Email + Password’ to Items Included in ‘Negligent Data Breach’
- High-Risk Businesses to Perform Annual Cybersecurity Audit
- Appointment of Chief Privacy Auditor





CPRA: Other Privacy Enhancements

- **Allows Consumers to Learn About Profiling, and Object to Automated Decision-Making Based on Profiles.**



CPRA: Other Privacy Enhancements

- **Allows Consumers to Learn About Profiling, and Object to Automated Decision-Making Based on Profiles.**
- **New Term: “Cross-Context Behavioral Advertising,” to Help Stop Cross-Site Tracking**

CPRA: Enhancing Privacy Rights; Strengthening the CCPA

Comparison of the California Privacy Rights Act to
European GDPR and existing CCPA

Components	EU Privacy Law (GDPR)	CCPA	CPRA	Components	EU Privacy Law (GDPR)	CCPA	CPRA
Right to Know What Information a Business has Collected About You	✔	✔	✔	Storage Limitation: Right to Prevent Companies from Storing Info Longer than Necessary	✔	✘	✔
Right to Say No to Sale of Your Info	✔	✔	✔	Data Minimization: Right to Prevent Companies from Collecting More Info than Necessary	✔	✘	✔
Right to Delete Your Information	✔	✔	✔	Right to Opt Out of Advertisers Using Precise Geolocation (< than 1/3 mile)	✔	✘	✔
Data Security: Businesses Required to Keep Your Info Safe	✔	✔	✔	Ability to Override Privacy in Emergencies (Threat of Injury/Death to a Consumer)	✔	✘	✔
Data Portability: Right to Access Your Information in Portable Format	✔	✔	✔	Provides Transparency around "Profiling" and "Automated Decision Making"	✔	✘	✔
Special Protection for Minors	✔	✔	✔	Establishes Dedicated Data Protection Agency to Protect Consumers	✔	✘	✔
Requires Easy "Do Not Sell My Info Button" for Consumers	✘	✔	✔	Restrictions on Onward Transfer to Protect Your Personal Information	✔	✘	✔
Provides Ability to Browse with No Pop-ups or Sale of Your Information	✘	✘	✔	Requires High Risk Data Processors to Perform Regular Cybersecurity Audits	✔	✘	✔
Penalties if Email Plus Password Stolen due to Negligence	✔	✘	✔	Requires High Risk Data Processors to Perform Regular Risk Assessments	✔	✘	✔
Right to Restrict Use of Your Sensitive Personal Information	✔	✘	✔	Appoints Chief Auditor with Power to Audit Businesses' Data Practices	✔	✘	✔
Right to Correct Your Data	✔	✘	✔	Protects California Privacy Law from being Weakened in Legislature	N/A	✘	✔



CPRA: Workability Enhancements



CPRA: Workability Enhancements

- “Business” definition adjusted to protect small businesses
- 100,000 Consumer Records Threshold, up from 50,000
- Buy or Sell only (no longer “receives/shares for a Commercial Purpose”)



CPRA: Workability Enhancements

- **Service Providers Must Only Assist Businesses for Access & Deletion**
- **Better for Consumers—You Don't *Want* AWS to See All Customer Data**

CPRA: Workability Enhancements

- **New Option for Businesses re “Do Not Sell” Button and Honoring any/all DNS Requests Submitted by Consumer (Think Browser Extension, Phone Setting) With No Customer Consequence**

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- **We Think There Will Be Pressure to go This Route From Competitors**

CPRA: Workability Enhancements

- **New Option for Businesses re “Do Not Sell” Button and Honoring any/all DNS Requests Submitted by Consumer (Think Browser Extension, Phone Setting) With No Customer Consequence**
- **We Think There Will Be Pressure to go This Route From Competitors**
- **Prediction: ‘Best in Class’ Law (No Click Fatigue, Cookie Walls)**



CPRA: Workability Enhancements

- New Definition of Publicly Available



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CPRA: Workability Enhancements

- **New Definition of Publicly Available**
- **In 2018 Initiative “Personal information does not include information that is publicly available...”**
- **CPRA Includes Exception for Widely Distributed Media or Intentional Disclosure**



Ongoing Flexibility and Engagement by the Legislature

- Majority vote in Legislature can make changes to CPRA



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- Majority vote in Legislature can make changes to CPRA
- Consistent with “purpose and intent of” CPRA



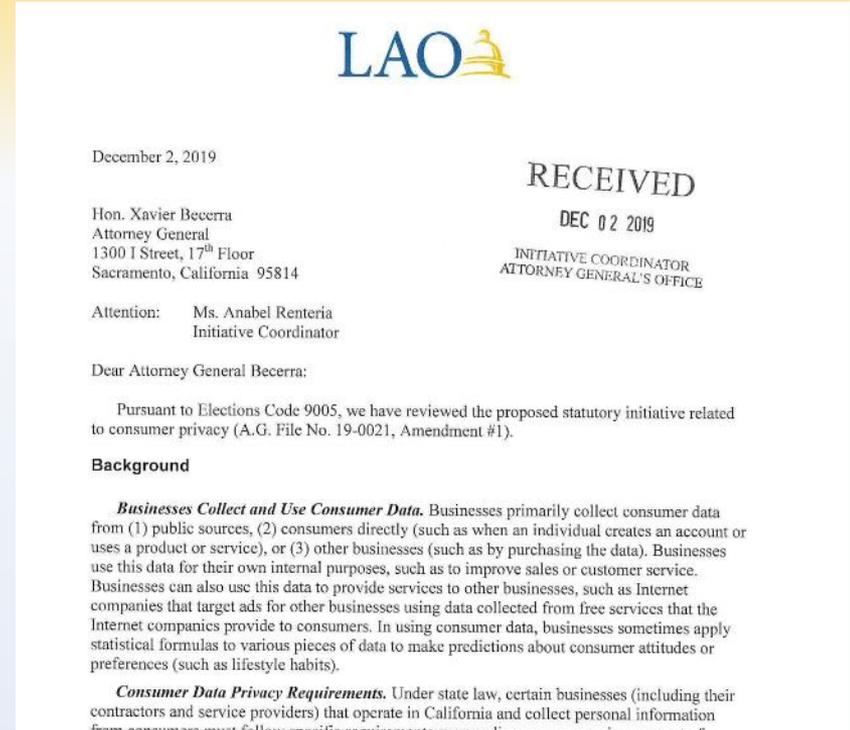
Ongoing Flexibility and Engagement by the Legislature

- Majority vote in Legislature can make changes to CPRA
- Consistent with “purpose and intent of” CPRA
- Purpose and intent: “...amendments [which] do not compromise or weaken consumer privacy.”



LAO Fiscal Analysis: CPRA

- \$10 million for the CPPA
- Low millions-- Costs for DOJ and Courts
- May be offset by fines/penalties





CCPA Regulatory Impact Assessment



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- **Incorrect reading of law (substitution of ‘share’ for ‘share for commercial purposes’) led to grossly high guess as to # of covered businesses**



CCPA Regulatory Impact Assessment

- Incorrect reading of law (substitution of ‘share’ for ‘share for commercial purposes’) led to grossly high guess as to # of covered businesses
- Totally unsubstantiated figure of \$55B as to compliance costs—with *no backup, no tables, just that figure.*



CCPA Regulatory Impact Assessment

- TrustArc survey of 68 companies with 500 - 1,000 employees; IAPP survey of 51 companies with 1-250 employees. *NATIONALLY. 119 Companies.*



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- No California-only survey data.



CCPA Regulatory Impact Assessment

- TrustArc survey of 68 companies with 500 - 1,000 employees; IAPP survey of 51 companies with 1-250 employees. *NATIONALLY. 119 Companies.*
- No California-only survey data.
- Conclusion: every California business > 5 employees, and 22% - 62% with 1-4 employees, would be covered by CCPA. Assume between 383,328 and 570,066 California businesses covered.

CPRA Next Steps

- 931,000 signatures submitted May 2020 (> pop WY, VT, DC, AK, ND, SD)



CPRA Next Steps

- 931,000 signatures submitted May 2020 (> pop WY, VT, DC, AK, ND, SD)
- Need 685,534 via random sample by 6/25/20 to qualify
- Current: 420,744 determined verified by random sample (*as of 6/8/2020)





US Consumer Regulation History

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- 1950's: Auto Safety



US Consumer Regulation History

- 1950's: Auto Safety
- 1960's: Smoking/Tobacco



US Consumer Regulation History

- **1950's: Auto Safety**
- **1960's: Smoking/Tobacco**
- **1970's: Auto Emissions, Clean Water Act, Lead Paint**



Big Brother

INDIAN POINT NUCLEAR PLANT



NEW JERSEY MEGACHURCH (nyt)





CALIFORNIA PRIVACY RIGHTS ACT

OF 2020



take control

of your personal data