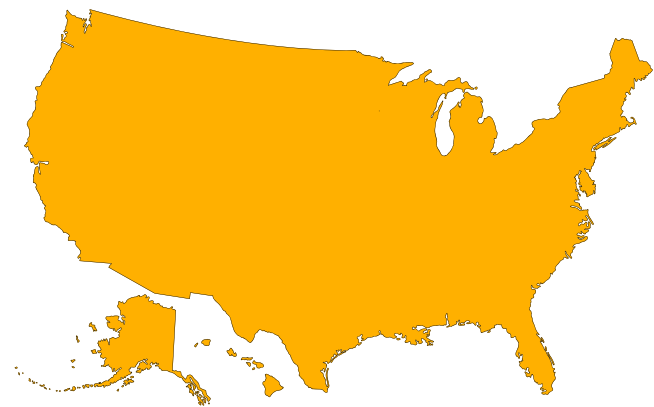# Legislative Update and Authorizing CPPA's Position on Pending Legislation

May 10, 2024
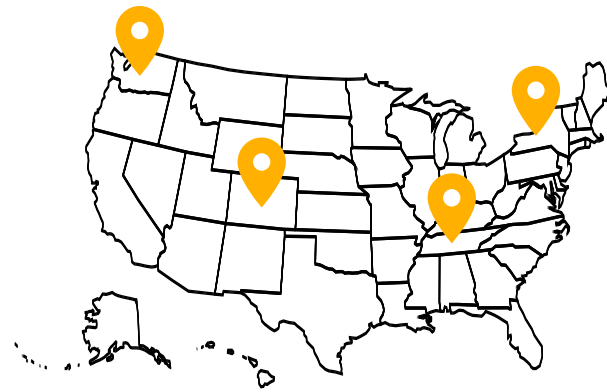
Maureen Mahoney

Deputy Director, Policy & Legislation

Policy and Legislation Update

Federal Privacy

Multistate Privacy

California Legislation

FEDERAL PRIVACY
AMERICAN PRIVACY RIGHTS ACT

STATE OF CALIFORNIA

ASHKAN SOLTANI, EXECUTIVE DIRECTOR

CALIFORNIA PRIVACY PROTECTION AGENCY
2101 ARENA BLVD.
SACRAMENTO, CA 95834
cppa.ca.gov

April 16, 2024

The Honorable Cathy McMorris Rodgers, Chair
House Energy & Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Gus Bilirakis, Chair
Innovation, Data, and Commerce Subcommittee
United States House of Representatives
Washington, DC 20515

Re: American Privacy Rights Act Discussion Draft

OFFICE OF THE GOVERNOR

April 19, 2024

The Honorable Maria Cantwell, Chair
Senate Committee on Commerce, Science, and Transportation
Russell Senate Office Building 254
Washington, DC, 20510

The Honorable Cathy McMorris Rodgers, Chair
House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

> " Americans shouldn't have to settle for a federal privacy law that limits states' ability to advance strong protections in response to rapid changes in technology and emerging threats in policy – particularly when Californians' fundamental rights are at stake. Congress should set a floor, not a ceiling.
>
> **– Ashkan Soltani, Executive Director of the California Privacy Protection Agency**

JULY 28, 2022 DELEGATION

The California Privacy Protection Agency Board voted unanimously to:

- Oppose as currently drafted H.R. 8152, the American Data Privacy and Protection Act (ADPPA), proposed federal privacy legislation that sought to significantly weaken Californians' privacy protections by pre-empting the California Consumer Privacy Act and other state privacy laws.

- Oppose any federal bill that in agency staff's judgment seeks to broadly preempt the California Consumer Privacy Act or provides substantially weaker protections than the CCPA.

- Support federal privacy legislation that in the agency staff's judgment, provides a "true floor" that allows states to implement stronger protections.

MULTISTATE PRIVACY

17 states have adopted consumer privacy laws

10 states now require businesses to honor opt-out preference signals

4 states adopted privacy laws in 2024 (New Jersey, New Hampshire, Kentucky, Nebraska)

More states expected to join them soon

CALIFORNIA LEGISLATIVE CALENDAR

1

May 24, 2024
Deadline for first house to pass bills

2

June 15, 2024
Deadline to pass Budget Bill

3

July 3, 2024
Deadline for policy committees to pass bills

4

Aug. 31, 2024
Deadline for the Legislature to pass bills

5

Sept. 30, 2024
Deadline for Governor to sign or veto bills

6

Jan. 1, 2025
Effective date of bills, unless otherwise stated

CPPA-Sponsored Legislation

AB 3048

(Lowenthal)

California Consumer Privacy Act of 2018: Opt-out Preference Signal

STATUS

Eligible for Assembly floor consideration

Opt-out preference signals (OOPS) are a simple and easy-to-use way for consumers to opt-out of sale and sharing of their personal information.

Receiving businesses are required to honor these signals, but most consumers don't have easy access to them.

This bill would address that by requiring browsers and devices to offer opt-out preference signals.

Additional CCPA Bills

AB 3286

(Privacy and Consumer Protection Committee)

California Consumer Privacy Act of 2018: Monetary Thresholds: Grants

Would clarify in the CCPA:

The method for calculating CPI adjustments to monetary thresholds;

When responding to sworn complaints, the CPPA does so with existing law enforcement privileges; and

That the CPPA shall begin administering the grant program when the amount of grant funds available after all other distributions have been made is over $300,000.

Additional CCPA Bills

AB 1824 (Valencia), California Consumer Privacy Act of 2018: Opt-out Right: Mergers

Would amend the CCPA to require that businesses obtaining the personal information of a consumer through a merger or acquisition, honor the consumer's previous opt out of sale/sharing request.

SB 1223 (Becker), Consumer Privacy: Sensitive Personal Information: Neural Data

Would amend the CCPA to define "sensitive personal information" to include a consumer's neural data, defined as "information that is generated by the measurement of the activity of an individual's central or peripheral nervous systems that can be processed by, or with the assistance of, neurotechnology."

CCPA-related AI Legislation

AB 2877
(Bauer-Kahan)

California Consumer Privacy Act of 2018: Artificial Intelligence: Training

Would amend the CCPA to prohibit a developer from using the personal information of a consumer under 16 to train an artificial intelligence system without affirmative authorization.

CPPA-related AI Legislation

AB 3204

(Bauer-Kahan)

Data Digesters Registration Act

- By January 31, 2026, would require data digesters, which are entities that produce an AI system, or modify an existing AI system, by training it on the personal data of 1,000 or more individuals or households, to register with the CPPA, pay a fee, and provide certain information.

- Requires the CPPA to make the registration information available on a page on its website.

- Provides rulemaking and enforcement authority to the CPPA.

Automated Decisionmaking Technology

AB 2930
(Bauer-Kahan)

Automated Decision Tools

Requires deployers of automated decision tools (ADTs) to:

- Refrain from using ADTs that result in algorithmic discrimination
- Perform impact assessments on ADTs
- Provide notice to consumers
- If feasible, accommodate a request to not be subject to the ADT

Requires developers of automated decision tools (ADTs) to:

- Provide deployers with a statement with respect to intended uses and documentation
- Not make available an ADT that results in algorithmic discrimination

AB 1949

(Wicks)

California Consumer Privacy Act of 2020: Collection of personal information of a consumer less than 18 years of age

Would amend the CCPA to:

- Remove the actual knowledge standard in determining whether a business must treat a consumer as a child;
- Prohibit a business from collecting, using (unless the use is short-term or transient), disclosing, selling or sharing the personal information of a consumer under 18 in the absence of affirmative authorization.

AB 1949

(Wicks)

California Consumer Privacy Act of 2020: Collection of personal information of a consumer less than 18 years of age

Would amend the CCPA to require the CPPA, on or before July 1, 2025 to adopt regulations:

- To establish technical specifications for an opt-out preference signal that indicates whether the consumer is a child; and
- Regarding age verification.