

17155 Identity Theft; Treble Damages

Any consumer who is a victim of identity theft and suffers any loss therefrom who can establish the identity of the business from whom the perpetrator or perpetrators of the identity theft received, directly or indirectly, any personal identifying information used to perpetrate the identity theft, shall be entitled to recover from such business all of the remedies provided for in section 1798.93 of the Civil Code, plus three times the amount of the loss, in addition to any other remedy.

17157 California Family Hours; No Telemarketing

Californians hereby declare their intention to enjoy family hours uninterrupted by unwanted commercial intrusions. To that end, no unsolicited telemarketing call for commercial purposes may be made to any California residential telephone or cellular telephone number issued to a California resident between the hours of 5:00 p.m. and 8:00 a.m. the next day.

17160 Private Information Protection; “Ask Me First”

- (a) This section shall be known and may be cited as the “Ask Me First Act.”
- (b) Any information, including personal identifying information, collected by a business during the course of soliciting or fulfilling the terms of a commercial transaction, or any information the business derives therefrom about the consumer, is deemed confidential information. Confidential information includes but is not limited to financial information and data.
- (c) A consumer’s confidential information may be disclosed to third parties only:
 - (1) By permission from the consumer; or
 - (2) To the extent necessary to effect, administer, or enforce a transaction requested or authorized by the consumer; or

- (3) To the extent required by state or federal law; or
- (4) To the extent permitted by a federal law which either (1) does not permit a state law providing greater protections for such information, or (2) permits a state law providing greater protection for such information and which disclosure the state of California has not prohibited; or
- (5) To the extent necessary to enforce the rights of a party entering into a transaction with the consumer.

(d) Third party businesses who obtain confidential information are bound by the provisions of this section.

(e) No business shall in any manner condition or deny any service, product or transaction, or discriminate against any consumer in whole or in part, because the consumer has not provided permission pursuant to subsection (c)(1).

17170 Remedies

In addition to the remedies afforded by section 17203 or any other provision of law, any person who successfully brings a private cause of action under any section of this division on behalf of him or herself, its members, or the general public, shall receive the greater of actual damages or statutory damages up to the amount of penalties imposed upon a violator of the Do Not Call Registry, plus any costs and reasonable fees.

Section 5: Chapter 5 of Part 2 of Division 7 is amended to read:

Section 17200 is amended to read:

17200 Unfair Competition; prohibited activities

As used in this chapter, unfair competition shall mean and include, but is not limited to any unlawful, unfair or fraudulent business act or practice, any business act or practice that violates the Constitutional Right of Privacy in Article 1, Section 1 of the California

Constitution, including but not limited to the privacy rights in Article 7 (commencing with section 17150) of Chapter 4 of Part 2 of Division 7 of the Business and Professions Code, and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

Section 17203 is amended to read:

17203. Injunction; orders or judgments

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to:

- (a) prevent the continuing, future or renewed use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or
- (b) to restore to any person in interest any money or property, real or personal, which may have been acquired, or to remedy any harms caused by means of such unfair competition, or
- (c) require any such person to surrender any and all financial gains obtained, or costs avoided, by any unlawful, unfair, or fraudulent business act or practice in violation of this chapter, to be used to remedy the harms or types of harms caused by the act or practice, or to a court-approved fund appropriate to the circumstances of the particular action, or to the State of California which may use the funds for state and local law enforcement to prevent and redress unfair business practices.

Section 17204 is amended to read:

17204. Actions for relief; prosecutors

Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of him-, her- or itself, its members or the general public. Any money that is recovered that is not returned or returnable to persons who have been harmed, or used to remedy any harms caused by the act or practice or otherwise disposed of in accordance with section 17203, shall be deposited into an account or accounts of the state or the local agency and may be used for any purpose including law enforcement to prevent and redress unfair business practices.

17206.7 Civil Penalties; Enforcement

Any civil penalties collected pursuant to sections 17206 or 17536 shall be deposited into an account or accounts of the state or the local agency and may be used for any purpose including law enforcement to prevent and redress unfair business practices.

Section 17208 is amended to read:

17208. Commencement of Action; limitations; revival

Any action to enforce any cause of action pursuant to this chapter shall be commenced within ten ~~four~~ years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment.

Section 17535 is amended to read:

17535. Injunctive relief; orders; prosecutor; complainant

Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person, corporation, firm, partnership, joint stock company, or any other association or organization of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of him-, her- or itself, its members or the general public. Any money that is recovered that is not returned or returnable to persons who have been harmed, or used to remedy any harms caused by the act or practice or otherwise disposed of in accordance with section 17203, shall be deposited into an account or accounts of the state or the local agency and may be used for any purpose including law enforcement to prevent and redress unfair business practices.

Section 6: Chapter 6 of Part 2 of Division 7 of the Business and Professions Code (commencing with section 17300) is added to read:

Section 17300 **Definitions.**

For purposes of Article 7 of Chapter 4 of Part 2 of Division 7 of this Code (commencing with section 17150):

- (a) “Business” means any person or entity regulated or otherwise subject to the provisions of Division 7 of the Business and Professions Code (commencing with Section 16000) which has a place of business in or does business with any resident or business in California. “Business” shall not include any political campaign, party, candidate or committee, or any other entity engaged solely in political, candidate, ballot measure or issue campaigns.
- (b) “Telephone call made by a business for commercial purposes” means a communication primarily for the purpose of offering or entering into a transaction for, or inducing a consumer to purchase, goods or services.
- (c) For purposes of section 17157, “unsolicited telemarketing call” means a telemarketing (as defined in 15 U.S.C. section 6106(4)) telephone call made by a business for commercial purposes that is not specifically requested by the recipient. It includes intrastate telephone calls. It does not include any telephone call not made for commercial purposes that is protected political activity under the First Amendment to the United States Constitution. A “California residential telephone or cellular telephone number issued to a California resident” means a residential telephone located in California, and a commercial mobile telephone service subscriber, in which the billing address is located in California. A “business” under section 17157 shall not include any charity or other tax-exempt organization recognized as such under Internal Revenue Code section 501(c), except subsection (6) thereof.