



STOKES WAGNER

ATTORNEYS AT LAW

ATLANTA • ITHACA • LOS ANGELES • PITTSBURGH • SAN DIEGO • SAN FRANCISCO

## Tracking the Latest in Employee Exemptions from the California Consumer Privacy Act

The California Consumer Privacy Act (“CCPA”) is set to take effect **January 1, 2020**. Since the announcement, employers have been raising concerns about whether the provisions of the act will include personal data collected from job applicants and employees. In May of 2019, the Assembly passed Assembly Bill 25 (“AB 25”), which explicitly narrowed the definition of “consumer” to exempt a business’ applicants and employees, among others. Just this week, the Senate significantly amended AB 25 by sunseting the employee exemption on January 1, 2021.

As background, the CCPA will apply to companies doing business in California that either: a) have annual revenues in excess of \$25 million; b) annually buy, receive for commercial purposes, sell, or share consumer personal information of 50,000 or more consumers; or c) derive more 50% or more of its annual revenue from selling consumer personal information. Businesses subject to the CCPA will face certain requirements regarding the disclosure of categories of personal information it collects, consumer access to collected information, and deletion of collected information.

The CCPA currently defines a consumer as “a natural person who is a California Resident.” AB 25 was submitted to narrow this extremely broad definition to exempt, amongst others, “a natural person whose personal information has been collected by a business in the course of a person acting as a job applicant to [or] an employee of [...] the business [...] to the extent that the natural person’s personal information is collected and used by the business solely within the context of the natural person’s role or former role as a job applicant to [or] an employee of [...] that business.” This exemption would eliminate otherwise significant obligations and burdens on employers once the CCPA takes effect. As amended by the Senate, though, the bill would only stand as a temporary relief.

The current draft has been sent to the Committee on Appropriations. A vote from that body will be coming next month followed by a full Senate vote which must take place no later than September 13, 2019. Employers should stay up to date on any developments; further amendment or passage of AB 25 could have a dramatic effect on the handling of employee data in the coming year.

Questions? Contact Stokes Wagner.