

California's Shine the Light Act: Plenty of Reason\$ for Businesses Not to Shine It On

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Recent class actions regarding California's Shine the Light Act illuminate the need for California businesses to pay attention to their privacy policy compliance practices. Violations of the Act can incur civil penalties of \$500 per violation — or \$3,000 per violation if it was willful, intentional or reckless — in addition to attorney's fees and court costs.

Shine the Light laws have been on the books since 2005, and require any organization doing business with California residents to protect personal information. That protection includes requirements to notify California customers:

- If their personal information has been accessed unlawfully, and/or
- If their personal information has been disclosed to a third party and if the organization knows, or should reasonably have known, if the third party used the information for direct marketing purposes.

In response, businesses are required to disclose the names and addresses of the third parties to its customers, limited to one request per year; destroy personal information in records that are being discarded; enable customer requests for disclosure by providing an address, email address or toll-free number to receive these requests; and to publicize the request procedure in at least one of three ways:

Website disclosure – adding a link entitled “Your Privacy Rights” that takes the site visitor to a page that describes the customer's rights under Section 1798.83 of the Act and provides the designated contact information.

Location disclosure – making the designated contact information “readily available upon request” by a customer at every physical location where a business has contact with a customer in California.

Agent and manager notification – notify supervisors of employees who have regular contact with customers to provide disclosure request contact information to customers who request it.

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Several class action suits have already been brought against California companies – primarily those that operate exclusively online – for violations of the Shine the Light Act. How the Act will be interpreted by the courts is still unknown, but, the [California business attorneys](#) at Tharpe & Howell can assist California businesses with defending against potential lawsuits with strategies gleaned from the Shine the Light statute and recent complaints.