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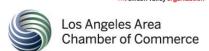






Chamber









September 3, 2019

TO: Members, California State Senate

SUBJECT: AB 25 (CHAU) CALIFORNIA CONSUMER PRIVACY ACT OF 2018

SUPPORT- AS AMENDED JULY 11, 2019

The California Chamber of Commerce and the listed organizations are pleased to **SUPPORT AB 25 (Chau)**, as amended July 11, 2019. **AB 25** makes a crucial fix to the California Consumer Privacy Act (CCPA) by largely exempting employees and job applicants acting in their professional capacities from the operation of the law.

The current language of this bill represents a compromise between the signatories of this letter, a privacy advocacy group named Common Sense, and Californians for Consumer Privacy, a privacy advocacy group headed by Alastair MacTaggart, the proponent of the privacy ballot initiative that was pulled in exchange for the passage of the CCPA. Moreover, the one-year sunset included in this bill reflects a compromise with labor unions acknowledging that while the CCPA is not the right fit for employees, we are committed to working together to find a better solution on employee privacy in a bill next year.

Under the CCPA, the definition of a "consumer" is any California resident. Without the clarification offered by **AB 25**, this language could be interpreted to include employees and job applicants, which was not an intended outcome of the CCPA, a law designed to address the privacy of consumers.

Application of the CCPA to employees is problematic for three main reasons:

- First, the costs for businesses of all sizes to operationalize the CCPA for employees and job applicants
 would be exorbitant. For example, consider a family-owned restaurant serving 150 tables per day –
 without this fix, that restaurant may have to operationalize the CCPA for its kitchen and wait staff in a
 business with high turnover and low profit margins.
- Second, this incredibly broad law the California <u>Consumer</u> Privacy Act was designed for consumers, not for employees. Consider an employee making an access request for "specific pieces of information" under the CCPA. The definition of "personal information" is so broad that it includes any data "capable of being associated with" someone. This means that in response to an employee's access request, a business may have to go into an employee's office and scan every paper document; gather all of the employee's internet search history, even if it is just laying dormant on the employee's company computer; produce all of the employee's email archives; produce any documentation from a working group that the employee might have been associated with; and so much more even if the business is doing nothing with any of this information.
- Third, there will be unintended consequences without this clarification. Access to personal information in the employment context is already established in California law. However, as currently drafted, the CCPA would allow a separated spouse who is part of a household to gain access to payroll records. Further, giving employees the right to delete certain information could be problematic as well. For example, an employee could ask a business to delete accusations of sexual harassment or to delete their emails, which could include inappropriate emails sent to a co-worker before a lawsuit is filed, so the CCPA legal claims and compliance section would not apply.

In addition to solving the above-described employment issues, **AB 25** proactively addresses privacy concerns. **AB 25** ensures that someone who is both an employee and a consumer of a business will still retain all of their CCPA rights as a consumer. Further, this bill strongly encourages businesses <u>not</u> to use employment data beyond the employment context – because the exemption <u>only</u> applies when <u>employment data is collected and used **solely** for employment purposes.</u>

AB 25 passed out of the Assembly with 77 votes in support, it passed the Senate Judiciary Committee with unanimous support, and it has not received a single "No" vote.

For these reasons, CalChamber and the listed organizations **SUPPORT AB 25**.

Sincerely.

Sarah Boot Policy Advocate

California Chamber of Commerce

Advanced Medical Technology Association Alliance of Automobile Manufacturers

American Benefits Council
American Council of Life Insurers

American Property Casualty Insurance Association

Association of California Life & Health Insurance Companies

Association of National Advertisers Azusa Chamber of Commerce Brawley Chamber of Commerce California Association of Realtors

California Attractions and Parks Association

California Bankers Association

California Cable & Telecommunications Association

California Community Banking Network

California Grocers Association California Hospital Association California Land Title Association California League of Food Producers California Life Sciences Association California Mortgage Bankers Association California Restaurant Association California Retailers Association Camarillo Chamber of Commerce

Card Coalition Civil Justice Association of California Consumer Data Industry Association Consumer Technology Association **CTIA**

Email Sender & Provider Coalition **Entertainment Software Association**

Greater Conejo Valley Chamber of Commerce

Insights Association

Interactive Advertising Bureau International Franchise Association

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Investment Company Institute

Los Angeles Area Chamber of Commerce Murrieta/Wildomar Chamber of Commerce National Payroll Reporting Consortium

North Orange County Chamber of Commerce

Oxnard Chamber of Commerce Pleasanton Chamber of Commerce Rancho Cordova Chamber of Commerce San Gabriel Valley Economic Partnership Santa Clarita Valley Chamber of Commerce

Santa Maria Valley Chamber

Securities Industry and Financial Markets Association

Silicon Valley Leadership Group

Simi Valley Chamber

Software & Information Industry Association Southwest California Legislative Council

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SB:IdI