



“FLOOR ALERT”

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 Consumer 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 not to use employment data beyond the employment context – because the exemption only applies when employment data is collected and used solely for employment purposes.

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
Internet Association
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
TechNet
The Silicon Valley Organization
Tulare Chamber

cc: Legislative Affairs, Office of the Governor
Edmundo Cuevas, Office of Assemblymember Chau
Christian Kurpiewski, Senate Judiciary Committee
Morgan Branch, Senate Republican Caucus

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