

2017

2017 Legislative Summary

Assembly Committee on Privacy and Consumer Protection

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2017 Legislative Summary

Assembly Committee on Privacy and Consumer Protection

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CALIFORNIA LEGISLATURE

Assembly Privacy and Consumer Protection Committee

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Introduction

The jurisdiction of the Assembly Privacy and Consumer Protection Committee spans a wide range of technology-related issues, and includes matters affecting consumer protection in both the digital and analog worlds.

Specifically, the Committee has jurisdiction over matters related to privacy, the protection of personal information (including digital information), the security of data, and information technology, as well as false advertising, charitable solicitations, weights and measures, and consumer protection generally. The Committee is also responsible for oversight of the Department of Technology within the State's Government Operations Agency.

During the 2017 Legislative Session, the Committee held a total of 12 hearings, consisting of 10 bill hearings, and two informational and oversight hearings.

A total of 53 bills were referred to the Committee during 2017, and 48 bills were heard by the Committee. Twenty-one of those were ultimately chaptered into law.

Bills were distributed among the Committee's main topic areas as follows:

Privacy (Personal & Commercial):	17 bills
Consumer Protection:	11 bills
Department of Technology:	8 bills
Information Technology:	6 bills
Cybersecurity:	5 bills
Law Enforcement:	4 bills
Weights and Measures:	2 bills

* * *

Consumer Protection

AB-76 (Chau) - Adult-use marijuana: marketing.

Adds marijuana, marijuana product, marijuana business, or any instrument or paraphernalia that is designed for the smoking or ingestion of marijuana or marijuana products to the list of products or services subject to the Privacy Rights for California Minors in the Digital World Act and changes the prohibitory age to 21 with regard to marijuana advertisements.

Status: Senate-In Committee Process - Appropriations

AB-228 (Gloria, Chiu) - Collectibles: sale of autographed memorabilia.

Revises and recasts existing consumer protections for purchasers of autographed collectibles, which would apply those protections only to sports and entertainment collectibles sold for more than \$50, narrows the definition of a dealer, revises the information required to be provided to the buyer, modifies the range of the civil remedy, and creates a new three-day right of cancellation in certain circumstances.

Status: Chapter 696, Statutes of 2017

AB-314 (Mullin) - Dating service contracts: online services.

Revises California's dating service contract law to provide certain alternative requirements for online dating services, such as an electronic means of cancellation, online availability of the contract, looser restrictions on contract length, and requirements that dating websites provide links for dating safety awareness and reporting concerning behavior.

Status: Chapter 578, Statutes of 2017

AB-1070 (Gonzalez Fletcher) - Solar energy systems: contracts: disclosures.

Requires the Contractors State License Board in collaboration with the Public Utilities Commission to develop and make available a "solar energy system disclosure document" for solar energy customers, compile an annual report documenting consumer complaints relating to solar contractors and, develop standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer.

Status: Chapter 662, Statutes of 2017

AB-1108 (Daly) - Self-service storage facilities.

Authorizes self-service storage facility owners to electronically send notices to occupants who are delinquent in paying rent or other charges until January 1, 2021.

Status: Chapter 227, Statutes of 2017

AB-1138 (Maienschein) - Sale of cats or dogs.

Prohibits false or misleading advertising related to the sale of dogs and cats.

Status: Vetoed

AB-1185 (O'Donnell) - Rental passenger vehicles.

Reduces the number of days car rental companies have to wait before using and accessing customer information to locate a missing rental vehicle from seven to three calendar days and allows several existing notice requirements to be met by electronic display.

Status: Senate-In Committee Process - Judiciary

AB-1244 (Voepel) - Consumer product safety: butane gas.

Prohibits the distribution or sale of any butane gas or product containing butane gas which does not have an odorant added.

Status: Assembly-In Committee Process - Privacy and Consumer Protection

SB-199 (Hernandez) - The California Health Care Cost, Quality, and Equity Atlas.

Requires the California Health and Human Services Agency to convene an advisory committee comprised of health care stakeholders and experts to identify the type of data, purpose of use and entities that are required to report to or have access to a health care cost, quality and equity database.

Status: Assembly-In Committee Process - Appropriations

SB-313 (Hertzberg) - Advertising: automatic renewal and continuous service offers.

Requires a business offering an automatic renewal or continuous service that includes a free gift or trial to clearly explain the pricing in the agreement terms, and clarifies that a consumer who accepts an automatic renewal offer online must be allowed to terminate the service online.

Status: Chapter 356, Statutes of 2017

SB-579 (Galgiani) - Collectibles: sale of autographed collectibles.

Revises existing consumer protections for purchasers of autographed collectibles by narrowing their application to certain types of sports and entertainment collectibles, revising the definition of a dealer, and limiting remedies for violations of the statute to specified civil penalties and costs.

Status: Assembly-Inactive File

Cybersecurity

AB-276 (Medina, Quirk-Silva) - Postsecondary education: report: cybersecurity education and training programs.

Requests that California's higher education institutions complete a report by January 1, 2019, on the current state of cybersecurity education and training programs at those institutions.

Status: Senate-In Committee Process - Rules

AB-364 (Chau) - Information security: cybersecurity: economic impact study.

Requires the Governor's Office of Business and Economic Development, on or before July 1, 2018, to commission and complete a study to evaluate the economic impact of California's cybersecurity industry.

Status: Assembly-In Committee Process - Appropriations

AB-1104 (Chau) - The California Political Cyberfraud Abatement Act.

Expands California's political cyberfraud law, which currently only covers ballot measure campaigns, to include cyberfraud committed against candidate campaigns.

Status: Chapter 715, Statutes of 2017

AB-1306 (Obernolte) - California Cybersecurity Integration Center.

Codifies in statute the California Cybersecurity Integration Center (Cal-CSIC) within the Office of Emergency Services to develop a statewide cybersecurity strategy in coordination with the California Task Force on Cybersecurity, authorizes the Governor to suspend the operations of the Cal-CSIC if federal funding is unavailable, and prohibits the Cal-CSIC from requiring private sector companies to share information.

Status: Vetoed

AB-1359 (Chau) - Cybersecurity: critical infrastructure business: breach notification.

Requires California businesses to report a breach of security of their critical infrastructure controls or information to the Office of Emergency Services (OES) if the breach is already required to be reported to federal authorities under federal law.

Status: Assembly-In Committee Process - Appropriations

Department of Technology

AB-434 (Baker) - State Web accessibility: standard and reports.

Requires the director and chief information officer of each state agency or state entity to post a signed certification on the front page of the state agency's internet website that it is in compliance with specified accessibility standards.

Status: Chapter 780, Statutes of 2017

AB-475 (Chau) - Department of Technology.

Extends the authority of the California Department of Technology (CDT) to use a negotiated procurement process for information technology procurements and makes other technical changes to several code sections pertaining to CDT.

Status: Chapter 193, Statutes of 2017

AB-531 (Irwin) - Office of Information Security: information security technologies.

Requires the Office of Information Security (OIS) to review the technologies used by state agencies to protect sensitive information, and develop a statewide plan to require state agencies to implement any information security technology that OIS determines to be necessary to protect that sensitive information.

Status: Vetoed

AB-650 (Dahle) - Director of Technology: state baseline security controls.

Requires the Director of Technology to review and revise baseline security controls for the state annually, based on emerging industry standards and baseline security controls published by the National Institute of Standards and Technology. Requires state agencies to comply with the state baseline security controls and prohibits them from tailoring their individual baseline security controls to fall below the state baseline security controls.

Status: Assembly-In Committee Process - Privacy and Consumer Protection

AB-1022 (Irwin) - Information technology: Technology Recovery Plans: inventory.

Requires state agencies to include within their Technology Recovery Plan an inventory of all critical infrastructure controls and associated assets.

Status: Chapter 790, Statutes of 2017

AB-1546 (Burke) - Public contracts: information technology: contractor performance assessment report.

Requires the Director of the California Department of Technology (CDT), on or before January 1, 2019, to develop a standardized contract performance assessment report

system to evaluate the performance of a contract on any information technology contractor or project reportable to CDT.

Status: Senate-In Committee Process - Appropriations

AB-1680 (Burke) - Director of Technology: procurement: training program.

This bill requires the Department of Technology, in cooperation with the Department of General Services, to establish and oversee the implementation of a professional development training program and curriculum within the California Procurement and Contracting Academy for persons engaged in the procurement of informational technology.

Status: Senate-Inactive File

AB-1681 (Burke) - Information technology contractors: standardized performance assessment system: report.

Requires the California Department of Technology to submit, by January 1, 2019, a report to the Governor and the Legislature on the development of a standardized performance assessment system, commonly known as a “vendor scorecard,” to evaluate vendor performance on information technology procurement projects.

Status: Senate-In Committee Process - Rules

Information Technology

AB-22 (Bonta) - Secretary of State: storing and recording electronic media.

Authorizes state agencies and local governments to retain public records specifically through the use of a cloud computing storage service.

Status: Chapter 834, Statutes of 2017

AB-380 (Dababneh) - Electronic transactions: motor vehicle finance.

Allows motor vehicle sales and lease transactions to be conducted electronically.

Status: Senate-In Committee Process - Judiciary

AB-527 (Caballero) - Pest control aircraft pilot's certificate: unmanned aircraft.

Allows commercial unmanned aircraft systems (UAS) operations for the purposes of pesticide application for mosquito and vector control, provided that the drone operator complies with Federal Aviation Administration rules governing drone flight and the drone operator has approval from the California Department of Pesticide Regulation. Creates a new pest control aircraft pilot certificate for UAS operators, to be provided upon operators passing the exam.

Status: Chapter 404, Statutes of 2017

AB-1187 (Eduardo Garcia) - Crowdsourcing and Citizen Science Act of 2017.

Establishes the Crowdsourcing and Citizen Science Act of 2017, which would authorize the Secretary for Environmental Protection and the heads of the various boards, offices, and departments within the California Environmental Protection Agency to use crowdsourcing and citizen science approaches to conduct activities designed to advance the mission of the California Environmental Protection Agency.

Status: Assembly-In Committee Process - Environmental Safety and Toxic Materials

AB-1296 (Quirk-Silva) - California E-Identity Program Task Force.

Establishes the California E-Identity Program Task Force within the Government Operations Agency and requires the Secretary of Government Operations to appoint 10 people to serve as the members of the task force. Requires the task force to study the development of an e-identity program within California, and to report its findings to the Legislature by January 1, 2019.

Status: Assembly-In Committee Process - Privacy and Consumer Protection

SB-347 (Jackson) - State Remote Piloted Aircraft Act.

Establishes the State Remote Piloted Aircraft Act, which governs unmanned aircraft systems (UAS) flight in California, allows local governments to adopt ordinances limiting UAS provided they are consistent with this bill, and establishes state enforcement authority over UAS for the California Department of Transportation.

Status: Assembly-In Committee Process - Privacy and Consumer Protection

Law Enforcement

AB-342 (Chiu) - Vehicles: automated speed enforcement: five-year pilot program.

Establishes a five-year-pilot program, dubbed the "Safer Streets Act 2017," that gives local transportation authorities in the City of San Jose and the City and County of San Francisco the authority to install automated speed enforcement systems in the two municipalities.

Status: Assembly-In Committee Process - Transportation

AB-459 (Chau) - Public records: video or audio recordings: crime.

Restricts, under the California Public Records Act, the public disclosure of video and audio recordings held by law enforcement that depict a victim of sexual or domestic violence, and requires that the victim or victim's family be given access to a copy of the recording.

Status: Chapter 291, Statutes of 2017

AB-608 (Irwin) - Electronic Communications Privacy Act.

Clarifies that information obtained by search warrant that is unrelated to an investigation may be sealed by a court through a variety of physical or electronic means, including encryption.

Status: Assembly-In Committee Process - Public Safety

SB-21 (Hill) - Law enforcement agencies: surveillance: policies.

Requires law enforcement agencies to develop a Surveillance Use Policy for all surveillance technologies, and requires those policies to be available to the public for comment and posting.

Status: Assembly-In Committee Process - Appropriations

Privacy**AB-165 (Cooper) - Privacy: electronic communications: exclusions: local educational agencies.**

Authorizes a county office of education, school district, charter school, or an individual authorized to act on behalf of a local educational agency to access a pupil's electronic device or electronic communication information without consent when investigating alleged or suspected pupil misconduct. Exempts local education agencies from complying with the California Electronic Communications Privacy Act to investigate misconduct of a pupil enrolled kindergarten or any of grades one to 12.

Status: Assembly-In Committee Process - Privacy and Consumer Protection

AB-210 (Santiago) - Homeless multidisciplinary personnel team.

Allows counties to develop a homeless adult and family multidisciplinary team in order to facilitate identification and assessment of homeless individuals, and link homeless individuals to housing and supportive services, and to allow service providers to share confidential information to ensure continuity of care.

Status: Chapter 544, Statutes of 2017

AB-241 (Dababneh) - Personal information: privacy: state and local agency breach.

Requires a public agency that is the source of a data breach to offer at least 12 months of identity theft prevention and mitigation services at no cost to affected consumers.

Status: Assembly-In Committee Process - Appropriations

AB-291 (Chiu, Bonta, Gonzalez Fletcher, Kalra) - Housing: immigration.

Enacts the Immigrant Tenant Protection Act of 2017, to establish various protections and safeguards against the unauthorized disclosure of tenants' immigration or citizenship status to federal immigration authorities or other parties, as well as potential

harassment, retaliation, or discrimination against tenants based on their immigration or citizenship status, or perceived immigration or citizenship status.

Status: Chapter 489, Statutes of 2017

AB-375 (Chau) - Broadband Internet access service providers: customer privacy.

Enacts the California Broadband Internet Privacy Act, which would generally require internet service providers to get the affirmative consent of a consumer before using, sharing or permitting access to a customer's sensitive information for reasons other than providing the service, and generally prohibits the provider from conditioning service or creating penalties or discounts based on consent.

Status: Senate-Inactive File

AB-889 (Mark Stone) - Secrecy agreements.

Limits the ability of litigants to enter into agreements or obtain court orders that keep secret evidence of a danger to public health and safety, as defined, unless a court makes certain independent findings.

Status: Assembly-Inactive File

AB-1166 (Burke) - Student financial aid: Cal Grant Program.

Establishes a formula to determine the amount of Cal Grant awards for students attending nonprofit, private colleges based on the average General Fund subsidy the state provides for financially needy students attending the University of California and California State University.

Status: Assembly-In Committee Process - Higher Education

AB-1248 (Gloria) - Public agencies: information.

Requires that the filing of the governing body of a public agency issue a statement within 60 days, instead of 70 days, after commencement of the existence of the public agency. The filing contains names and addresses of members of the governing body.

Status: Assembly-In Committee Process - Local Government

SB-157 (Wieckowski) - Invasion of privacy: distribution of sexually explicit materials: protection of plaintiff's identity.

Strengthens provisions that protect the confidentiality of a person who brings a civil action alleging harm otherwise known as "revenge porn" by expanding the definition of an "identifying characteristic" that may be redacted from court pleadings and documents and extending redaction requirements to discovery documents.

Status: Chapter 233, Statutes of 2017

SB-182 (Bradford) - Transportation network company: participating drivers: single business license.

Prohibits a local jurisdiction from requiring a transportation network company driver to obtain more than one business license, regardless of the number of jurisdiction in which they operate.

Status: Chapter 769, Statutes of 2017

SB-184 (Morrell) - Social security number truncation program.

Expands existing county programs to remove full social security numbers from official recorded documents by allowing county recorders to begin redacting SSNs from older documents that were recorded before January 1, 1980.

Status: Chapter 621, Statutes of 2017

SB-241 (Monning) - Medical records: access.

Entitles a patient or patient's personal representative to a paper or electronic copy of all or any portion of the patient records; and imposes a reasonable, cost-based fee for providing a paper or electronic copy or summary of patient records, as specified.

Authorizes the disclosure of patient information and records of individuals with developmental and mental health disabilities who are voluntarily or involuntarily detained, including those detained under the Lanterman-Petris-Short Act, to a business associate or for health care operations purposes, in accordance with specified federal law.

Status: Chapter 513, Statutes of 2017

SB-244 (Lara) - Privacy: agencies: personal information.

Makes a number of changes to existing laws about public records in order to protect the privacy of persons whose information is included in those records.

Status: Assembly-Inactive File

SB-433 (Mendoza) - Developmental services: data exchange.

Allows the Employment Development Department to share data with the Department of Developmental Services (DDS) to allow DDS to evaluate employment outcomes and determine the effectiveness of the state's Employment First Policy. These provisions were later amended out of the bill.

Status: Assembly-In Committee Process - Utilities and Energy

SB-466 (Bates) - Rental passenger vehicle transactions: electronic surveillance technology: AMBER Alert.

Authorizes rental car companies to use electronic surveillance technology to locate a rental vehicle in order to assist law enforcement with finding missing or abducted children.

Status: Chapter 163, Statutes of 2017

SB-575 (Leyva) - Patient access to health records.

Entitles a patient to a copy, at no charge, of the relevant portion of the patient's records that are needed to support a claim regarding eligibility for specified public benefit programs. Adds to the list of public benefit programs the In-Home Supportive Services program, the CalWORKs program, federal veterans' service-connected compensation and nonservice connected pension disability benefits, and CalFRESH.

Status: Chapter 626, Statutes of 2017

SB-784 (Galgiani) - Crimes: disorderly conduct: invasion of privacy.

Authorizes a court to impose an additional fine not to exceed \$1,000 when an individual intentionally distributes or makes available secretly recorded images of a person's body in a manner that violates the privacy of that individual.

Status: Vetoed

Weights and Measures

AB-347 (Chau) - Weights and measures: inspection: fees.

Extends to January 1, 2022, the authority of the board of supervisors of a county and the California Department of Food and Agriculture to charge fees to recover the costs of the county sealer related to the inspection and testing of weighing and measuring devices.

Status: Senate-In Committee Process - Business, Professions and Economic Development

SB-547 (Hill) - Professions and vocations: weights and measures.

Makes technical and substantive changes to boards and bureaus under the jurisdiction of the Department of Consumer Affairs (DCA); provides for fee increases for several boards and a bureau of the DCA; extends the operation of the California Council for Interior Design; requires that the fees collected by the California Department of Food and Agriculture to recover administration costs also include reasonable costs to maintain state weights and measures standards; and, makes other technical and clarifying changes.

Status: Chapter 429, Statutes of 2017

Governor's Veto Messages

AB-531 (Irwin) - Office of Information Security: information security technologies.

Requires the Office of Information Security (OIS) to review the technologies used by state agencies to protect sensitive information, and develop a statewide plan to require state agencies to implement any information security technology that OIS determines to be necessary to protect that sensitive information.

Governor's Veto Message:

Governor's veto message: To the Members of the California State Assembly:

I am returning Assembly Bill 531 without my signature.

This bill requires the Department of Technology's Office of Information Security to review state departments' information security policies to determine if they are sufficient to protect critical government information. The bill also requires the Office to develop a statewide plan to address any deficiencies it sees in its review of departments' cybersecurity practices.

By June 30th, 2018 my administration will finish information security assessments of every state department as required by AB 670. These assessments identify and correct departments' network vulnerabilities. Going forward, each department will receive additional assessments every two years. The Department is also performing audits on departments that scrutinize how their information security practices measure up to the state's information security policies. This coordinated approach to the state's cybersecurity will improve each state department's policies, procedures, and networks so that the state's critical information is secure.

Informed by these assessments and audits, in early 2018 the Department will complete a strategic plan that outlines the state's information security priorities for departments to implement.

Because these efforts will fulfill many of this bill's objectives, I am reluctant to sign the bill at this time

Sincerely,
Edmund G. Brown Jr.

AB-1138 (Maienschein) - Sale of cats or dogs.

Prohibits false or misleading advertising related to the sale of dogs and cats.

Governor's Veto Message:

Governor's veto message: To the Members of the California State Assembly:

I am returning Assembly Bill 1138 without my signature.

This bill creates a new misdemeanor for the false or misleading advertising related to the sale of dogs and cats.

Existing law already makes it unlawful to make fraudulent, deceptive, untrue, or misleading advertisements. A violation of existing law is a misdemeanor punishable by imprisonment in county jail not exceeding six months, or by a fine not exceeding \$2,500, or both. The creation of a new crime is not necessary.

Sincerely,
Edmund G. Brown Jr.

AB-1306 (Obernolte) - California Cybersecurity Integration Center.

Codifies in statute the California Cybersecurity Integration Center (Cal-CSIC) within the Office of Emergency Services to develop a statewide cybersecurity strategy in coordination with the California Task Force on Cybersecurity, authorizes the Governor to suspend the operations of the Cal-CSIC if federal funding is unavailable, and prohibits the Cal-CSIC from requiring private sector companies to share information.

Governor's Veto Message:

Governor's veto message: To the Members of the California State Assembly:

I am returning Assembly Bill 1306 without my signature.

Two years ago I established the California Cybersecurity Integration Center when I signed Executive Order B-34-15. Cybersecurity threats against the state are constantly changing and the Center continues to mature in response to these threats. I am concerned that placing the Center in statute as this bill proposes to do, will unduly limit the Center's flexibility as it pursues its mission to protect the state against cyberattacks.

Sincerely,
Edmund G. Brown Jr.

SB-784 (Galgiani) - Crimes: disorderly conduct: invasion of privacy.

Authorizes a court to impose an additional fine not to exceed \$1,000 when an individual intentionally distributes or makes available secretly recorded images of a person's body in a manner that violates the privacy of that individual.

Governor's Veto Message:

Governor's veto message: To the Members of the California State Senate:

I am returning Senate Bill 784 without my signature.

This bill authorizes an increased financial penalty in situations where a person takes photographs or video footage of another person without their consent and intentionally distributes it or makes it available to another person.

I don't believe the additional \$1,000 called for in this bill does anything to deter this type of conduct. The underlying crime-the recording of the image-is already punishable by up to six months in jail and a \$1,000 fine, and courts currently have discretion to order that any restitution include economic losses incurred by the victim. Moreover, civil remedies are available in these situations.

I believe that current law already provides sufficient criminal and civil liability.

Sincerely,
Edmund G. Brown Jr.