

Digital Content Next

Legal and Legislative Committee
Jully 23, 2019

Agenda

Review Amendments to the CCPA

Overview

- The California Senate Judiciary Committee took up a number of bills on July 10 that previously passed the Assembly to amend the California Consumer Privacy Act of 2018 (CCPA).
- It also considered a number of other privacy-related bills separate from CCPA.
- Bills that passed now go to the Senate Appropriations Committee, which will hear them after summer recess ends on August 12.
- Bills that failed or were pulled are now two year bills that may come up again in January.
- The legislative session ends on September 13, after which the Governor has 30 days to sign or veto any legislation that reaches his desk.

CCPA Bills

- The Senate Judiciary Committee heard four bills to amend CCPA:
 - AB 25 (Chau): employee fix – PASSED 8-0 as amended
 - AB 873 (Irwin): definitions of “personal information” and “deidentified” – FAILED 3-3
 - AB 874 (Irwin): definition of “publicly available information” – PASSED on consent
 - AB 1146 (Berman): exemptions: vehicle information – PASSED 8-0

AB 25: CCPA employee fix

- Passed Committee 8-0 as amended.
- Aims to narrow the law so that it does not capture information an employee provides to an employer or potential employer for the purposes of employment.
- Amendments:
 - Fix sunsets after one year.
 - Requires employers to disclose the categories of data they collect from their employees and the purposes for which the categories shall be used.
- Next Steps: The sunset secured support from labor and gives all stakeholders time to negotiate an employee data bill to be introduced next year. Senate Appropriations will consider the bill before it is eligible for a floor vote; a hearing date has not yet been set, but it will be after the summer recess ends on August 12. The amendments are likely not substantive enough to require the Assembly to vote again.

AB 873: CCPA “personal information” and “deidentified” fixes

- Industry-backed bill that passed Assembly 56-0 failed on a 3-3 Committee vote.
- Key components:
 - Narrowed the definition of personal information (PI) to: (1) exclude information that “is capable of being associated with” a particular consumer; (2) exclude information that could be linked to particular “households”; and (3) potentially exclude items that are otherwise listed as types of PI even if those items actually identify a particular consumer.
 - Revised a provision prohibiting CCPA from being construed to require a business to reidentify or otherwise link information that is not maintained in a manner that would be considered PI.
- Committee Chair Jackson objected to the legislation on the grounds that it would weaken CCPA and bill’s author, Assemblymember Irwin, did not accept the Committee’s proposed amendments.
- Next Steps: Other lawmakers are frustrated with how Jackson has handled CCPA legislation and Senator Hertzberg is planning to work with privacy advocate Alastair MacTaggart on a “grand bargain” with the goal of passing legislation before the session ends on September 13.

AB 874: CCPA “publicly available information” fix

- Passed Committee on consent.
- Amends the definition of “publicly available information” to exempt from the definition of PI any information that is lawfully made available from government records.
- Next Steps: The bill goes to the Governor for his signature. He has 30 days after the session ends on September 13 to sign or veto legislation.

Other Privacy Bills

- The Committee also passed five privacy bills unrelated to CCPA:
 - AB 384 (Chau): Information privacy: digital health feedback systems – PASSED 6-1
 - AB 846 (Burke): Customer loyalty programs – PASSED 8-0 as amended
 - AB 1138 (Gallagher): Social media: the Parent's Accountability and Child Protection Act – PASSED 8-0
 - AB 1564 (Berman): Consumer privacy: consumer request for disclosure methods – PASSED 8-0
 - AB 1790 (Wicks): Marketplaces: marketplace sellers: PASSED 7-1

Other Privacy Bills

- Authors pulled three bills unrelated to CCPA due to lack of support:
 - AB 1395 (Cunningham): Information privacy: other connected device with a voice recognition feature
 - AB 1416 (Cooley): Business: collection and disclosures of consumer personal information
 - AB 1782 (Chau): Automated license plate recognition information: usage and privacy policy

AB 846: Customer loyalty programs

- Passed Committee 8-0 as amended.
- An agreement was reached during the Senate Judiciary hearing to take an amendment that a business cannot “sell” personal information obtained from loyalty/rewards programs.
- Industry views as potentially more problematic than what is currently in CCPA because it might not allow for an opt-in.
- Committee Chair Jackson wanted data from loyalty programs held to a higher standard.