

AB 375 (CHAU, HERTZBERG)
PRIVACY: PERSONAL INFORMATION: BUSINESSES
OPPOSE – AS AMENDED JUNE 25, 2018

“FLOOR ALERT”



June 27, 2018

TO: Members, California State Legislature

FROM: California Chamber of Commerce 
Advanced Medical Technology Association
American Insurance Association
Association of California Life and Health Insurance Companies
Association of National Advertisers
California Association of Licensed Investigators
California Business Properties Association
California Business Roundtable
California Cable & Telecommunications Association
California Communications Association
California Community Banking Network
California Grocers Association
California Land Title Association
California Landscape Contractors

California Manufacturers & Technology Association
California Mortgage Bankers Association
California Retailers Association
CompTIA
CTIA
IHS Markit
Interactive Advertising Bureau
Internet Association
Internet Coalition
National Retail Federation
Personal Insurance Federation of California
Pharmaceutical Research and Manufacturers of America
Retail Industry Leaders Association
Securities Industry and Financial Markets Association
TechNet

SUBJECT: AB 375 (CHAU, HERTZBERG) PRIVACY: PERSONAL INFORMATION: BUSINESSES
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The coalition of businesses and organizations listed above, representing the depth and breadth of the California economy, **OPPOSE AB 375 (Chau, Hertzberg)**, as amended June 25, 2018. The bill, while a step in the right direction and potentially averting a costly ballot fight against a flawed initiative, continues to represent a serious threat to the California economy.

We appreciate the efforts that Senator Hertzberg and Assemblymember Chau have made to craft compromise legislation that would avert a significant ballot fight in November over the so-called “privacy initiative.” However, this process has left little room for meaningful policy negotiation with all stakeholders about a bill that stands to impact nearly every California business and consumer.

Since late last week negotiations have intensified with multiple versions of this bill being presented to some in the business community. We are now faced with a “take it, or leave it” scenario which is very problematic given that the business community overall has had little input to these negotiations.

Even more troublesome, the newest amendments expanding the liability in what is supposed to be the “data breach” section of this bill have nothing to do with privacy. They are another giveaway to trial lawyers in a bill that already had too many of them. We have serious concerns with the private right of action in this bill as it exposes California businesses to massive, additional liability without providing any corresponding benefit to consumers. The Chamber of Commerce has identified similar language in another bill this year as a “Job Killer.”

Yet, the business community is in an untenable situation. Although **AB 375** is deeply flawed, the “privacy initiative” is even worse. The stakes are of this initiative are enormous because if the initiative is passed, then the Legislature will be virtually unable to amend the law in the future. So, at this late hour, we prefer the legislative process to the initiative process, which leaves very little room to amend or update a law that would apply to businesses and technology, which are constantly evolving for the betterment of California.

The business community has been and remains interested in and dedicated to crafting reasonable privacy legislation. We strongly urge the Legislature to consider the numerous problems presented by this bill and to fix them as we move forward. These include, but are not limited to, the issues surrounding enforcement, definitions of personal information and sale, consumer transparency and access, the right to delete information, certain opt-in rights, the mandated “opt out” button, the creation of GDPR-like rights in language that differs from the GDPR, the Attorney General’s regulatory process, and confusing language that will be difficult for businesses and consumers to understand.

These are only some of the numerous problem areas with the bill that we believe this Legislature will seriously need to consider going forward. For these reasons and more, we are **OPPOSED to AB 375 (Chau, Hertzberg), however, we maintain the preference for this legislation over the ballot initiative for the reasons stated.**

cc: Tom Dyer, Office of the Governor
The Honorable Ed Chau
The Honorable Robert Hertzberg
Ronak Daylami, Assembly Privacy and Consumer Protection Committee
Jared Yoshiki, Assembly Republican Caucus
Christian Kurpiewski, Senate Judiciary Committee
Mike Petersen, Senate Republican Caucus
Jessica Peters, Assembly Appropriations Committee
Shaun Naidu, Senate Appropriations Committee
Office of Senate Floor Analysis
District Offices, Members, California State Legislature