

ASSEMBLY THIRD READING
AB 523 (Irwin)
As Introduced February 13, 2019
Majority vote

SUMMARY:

Prohibits a telephone company from sharing specified personal information about a noncommercial subscriber without first obtaining the subscriber's written consent.

Major Provisions

- 1) Prohibits a telephone or telegraph corporation from making available to any other person or corporation a noncommercial subscriber's customer proprietary network information (CPNI) or geolocation information, without first obtaining the noncommercial subscriber's written consent.
- 2) Clarifies that the prohibition on sharing specified information about a subscriber, without first obtaining the subscriber's written consent, applies to noncommercial subscribers.

COMMENTS:

CPNI: California's telephone privacy rules prohibits a telephone company from making available to anyone, specified personal information, without first obtaining the residential subscriber's written consent. CPNI is highly sensitive personal information a telecommunications provider has on its customers. This can include information such as phone numbers called by a customer, the frequency, duration, and timing of such calls, and any services purchased by the customer.

Telephone Privacy Rules: In March 2018, the Consumer Federation of California and the Utility Reform Network filed a joint petition to the California Public Utilities Commission (CPUC) requesting it to modernize its privacy rules for wireless telecommunications providers. The joint petition argued that there were gaps in existing privacy protection which include a need to update the states CPNI requirements that were enacted well before the development of current cell phone technologies or smartphones. In November 2018, the CPUC denied the joint petition arguing that given the recent enactment of the California Consumer Privacy Act of 2018 (CCPA), it is not certain that a review of wireless providers' privacy practices in California is needed at this time. According to the author, the bill does not seek to enact the suggested rules in the joint petition in full, but seeks to address a narrow subset that focuses on updating the technological references and inclusion of geolocation.

According to the Author:

The sale of your mobile phone's geolocation is a fundamental violation of a subscriber's privacy. Law enforcement must obtain a warrant under both state and federal law to access your geolocation from a telecommunications provider, an appropriate safeguard that recognizes the sensitive nature of a person's current and past location. The real-world implications for personal safety are frightening when this information is shared with non-law enforcement. We must provide Californians with the tools to protect themselves, especially as the [FCC] fails to enforce federal protections.

Arguments in Support:

According to the Public Advocates Office, "This bill would require wireless carriers to obtain written consent from their customers before they share or sell a customer's real-time location information to other individuals or businesses. This is important because recent investigations have demonstrated that wireless carriers have been selling highly-accurate, real-time customer location data to companies who resell the information to other companies without obtaining a customer's consent. We support this bill because it would help put an end to this practice and strengthen privacy protections that customers deserve."

Arguments in Opposition:

According to CTIA, "To the extent the proposed legislation is driven by a concern that geolocation information is especially sensitive and requires additional protections, then all businesses collecting that data should be subject to those enhanced restrictions, and not be limited to telecommunications providers. The protection of location data should be treated the same regardless of which entity collects or possesses the data. AB 523 is unnecessary because the [CCPA] already provides rights and obligations related to consumers' geo-location data [...] AB 523 will cause consumer confusion [...] AB 523 should limit the affirmative opt-in requirements to precise geolocation data [...] For these reasons, CTIA respectfully opposes AB 523 unless it is amended."

FISCAL COMMENTS:

Unknown. This bill has been keyed non-fiscal by the Legislative Counsel.

VOTES:**ASM COMMUNICATIONS AND CONVEYANCE: 9-2-2**

YES: Santiago, Boerner Horvath, Bonta, Gipson, Holden, Kamlager-Dove, Low, Quirk-Silva, Rodriguez

NO: Brough, Patterson

ABS, ABST OR NV: Obernolte, Cervantes

ASM PRIVACY AND CONSUMER PROTECTION: 9-0-2

YES: Bauer-Kahan, Berman, Calderon, Gabriel, Gallagher, Irwin, Obernolte, Smith, Wicks

ABS, ABST OR NV: Chau, Kiley

UPDATED:

VERSION: February 13, 2019

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