
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

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SUBJECT: Workplace surveillance

KEY ISSUES

This bill limits employer use of workplace surveillance tools by 1) prohibiting an employer from using such tools to monitor workers in employer-designated off-duty areas; 2) authorizing employers to use video cameras in certain locations for safety purposes but with limitations, as specified; and 3) authorizes the use of workplace surveillance tools in specified circumstances, including to access locked or secured areas. This bill 1) includes anti-discrimination provisions protecting workers' exercise of these rights; 2) makes an employer who violates these provisions subject to a specified civil penalty; 3) authorizes the Labor Commissioner (LC) to enforce these prohibitions, issue citations, and file civil actions for any violations; 4) additionally authorizes enforcement by public prosecutors; and 5) provides exemptions to specified security, military and aerospace employers.

ANALYSIS

Existing law:

- 1) States that the "right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them." Further states these findings of the Legislature:
 - a. The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.
 - b. The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.
 - c. In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.
(Civil Code §1798.1)
- 2) States that advances in science and technology have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications and that the invasion of privacy resulting from the continual and increasing use of such devices and techniques has created a serious threat to the free exercise of personal liberties that cannot be tolerated in a free and civilized society. (Penal Code §630)

- 3) Prohibits a person from intentionally, and without the consent of all parties to a confidential communication, using an electronic amplifying or recording device to eavesdrop upon or record the confidential communication. For purposes of these provisions, defines a “person” to mean an individual, business association, partnership, corporation, limited liability company, or other legal entity. (Penal Code §632)
- 4) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civil Code §1798.100 et seq.)
- 5) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civil Code §1798.100 et seq.; Proposition 24 (2020))
- 6) Establishes the Department of Industrial Relations (DIR) in the Labor and Workforce Development Agency (LWDA), and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. (Labor Code §50.5)
- 7) Establishes within the DIR, various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day’s pay in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)
- 8) Requires employers to provide to each employee, upon hire, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. (Labor Code §2101)
- 9) Prohibits an employer from causing an audio or video recording to be made of an employee in a restroom, locker room, or room designated by an employer for changing clothes, unless authorized by court order. No recording made in violation of this prohibition may be used by an employer for any purpose. A violation of this section constitutes an infraction. (Labor Code §435)
- 10) Authorizes, until January 1, 2029, a public prosecutor to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code or to enforce those provisions independently. (Labor Code §181)

This bill:

- 1) Defines, among other terms, the following:
 - a. “Employer” means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours,

working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker.

- i. “Employer” includes an employer’s labor contractor.
 - ii. “Employer” includes private entities and public entities, including, but not limited to, all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.
 - b. “Employer-designated area” means an area in the workplace the employer provides or has historically provided to workers to use for breaks or to purchase, obtain, or consume food or beverages.
 - c. “Worker” means an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in a workplace.
 - d. “Workplace surveillance tool” means a system, application, instrument, or device that collects or facilitates the collection of worker activities, communications, actions, biometrics, or behaviors, or those of the public that are capable of passively surveilling workers, by means other than direct observation by a person, including, but not limited to, video or audio surveillance, electronic workplace tracking, geolocation, electromagnetic tracking, photoelectronic tracking, or utilization of a photo-optical system or other means.
 - i. “Workplace surveillance tool” does not include smoke or carbon monoxide detectors or weapon detection systems that automatically screen a person’s body.
 - e. “Public prosecutor” means the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor.
- 2) Prohibits an employer, unless directed by a court order, from using a workplace surveillance tool to monitor or surveil workers, including data collection on the frequency of a worker’s use of those areas, in the following employee-only, employer-designated areas:
- a. Bathrooms.
 - b. Locker rooms.
 - c. Changing areas.
 - d. Breakrooms.
 - e. Lactation spaces.
 - f. Cafeterias.
- 3) Authorizes a worker to leave behind workplace surveillance tools that are on their person or in their possession when entering the off-duty areas listed above, including during off-duty hours, such as meal periods, unless a worker is required to remain available during meal or rest periods pursuant to federal law or existing state law.
- 4) Notwithstanding the above, authorizes an employer to do all of the following:

- a. For worker safety purposes only, use video cameras to record breakrooms, employee cafeterias, or lounges, subject to the following requirements:
 - i. The video camera does not record audio.
 - ii. The employer posts signage in areas recorded by the video camera notifying workers that they are subject to video surveillance.
 - iii. The video camera does not use artificial intelligence or other digital monitoring capacity.
 - iv. The employer does not monitor or review video surveillance of breakrooms, employee cafeterias, or lounges unless one of the following conditions is met:
 1. A worker or their authorized representative requests video surveillance they are in and the employer only reviews the surveillance to find the requested segment.
 2. Law enforcement or a court of law requests the video. Video footage provided to law enforcement shall also be made available to a worker who is recorded.
 - v. The video surveillance is stored in a form that can only be accessed by a worker who is reviewing the video surveillance for the purposes specified above.
 - b. Use workplace surveillance tools that passively surveil workers in a work area not listed in (2) above, even if an off-duty worker may be present, as long as the worker is made aware in advance that a workplace surveillance tool is in use.
 - c. Check workplace surveillance tools for the one-time entry and exit in the off-duty areas for health and safety purposes, as long as it is not used to monitor the frequency of a worker's use of those areas.
- 5) Prohibits an employer from requiring a worker to physically implant a device that collects or transmits data, including a device that is installed subcutaneously in the body.
- 6) On a multiemployer jobsite, requires the controlling employer to post a notice at the jobsite providing a general description of the types of activities that may be monitored or surveilled and for what purposes. Specifies that such a notice satisfy the requirement for any employer whose employees perform work on that jobsite.
- 7) Specifies that an employer is not in violation of the bill's provisions in any of the following circumstances:
- a. A worker brings a workplace surveillance tool into an off-duty area, specified in (2) above, because it is required to access a locked or secured area.
 - b. A worker uses a workplace surveillance tool to access a locked or secured area during off-duty hours.
 - c. A worker voluntarily chooses to bring a workplace surveillance tool into an off-duty area.
 - d. A worker voluntarily keeps a workplace surveillance tool on their person during off-duty hours.
- 8) Prohibits an employer from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee for using, or attempting to use, the employee's rights under this part, including the filing of a complaint, as specified.
- 9) Specifies that in addition to any other remedy, an employer who violates these provisions shall be subject to a civil penalty of \$500 per employee for each violation.

- 10) In addition to any other remedy, authorizes the Labor Commissioner to enforce these provisions, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing including by issuing a citation and filing a civil action, as specified.
- 11) Authorizes these provisions to also be enforced by a public prosecutor, as specified.
- 12) Provides that the above provisions do not preempt any local law that provides equal or greater protection to workers.
- 13) Specifies that the above provisions are severable and if any provision is held invalid, that invalidity shall not affect other provisions or applications that can be given effect.
- 14) Provides that these provisions do not limit the authority of the Attorney General, a district attorney, or a city attorney, either upon their own complaint or the complaint of any person acting for themselves or the general public, to prosecute actions, either civil or criminal, for violations of these provisions, or to enforce the provisions independently and without specific direction of the LC or the Division of Labor Standards Enforcement.
- 15) Specifies that these provisions do not prohibit any employer from using workplace surveillance tools as required by federal law or existing state law.
- 16) Specifies that these provisions do not authorize any employer to use workplace surveillance tools as prohibited by federal law or existing state law.
- 17) Exempts from all these provisions, an employer that does either of the following:
 - a. Develops products for national security, military, space, or defense purposes.
 - b. Develops aircraft for operation in national airspace.

COMMENTS

1. Background:

Artificial Intelligence and Workplace Surveillance Tools

With technological advancements happening faster than humans can react, we often miss opportunities to pause and evaluate its impact. Until recently, advancements in technology often automated physical tasks, such as those performed on factory floors or self-checkouts, but artificial intelligence (AI) functions more like human brainpower. AI can use algorithms to accomplish tasks faster and sometimes at a lower cost than human workers can. With regards to employee monitoring and surveillance, employers are deploying AI-powered tools that monitor and manage workers, including by tracking their locations, activities, including emotions, and productivity.

Employee monitoring and surveillance is not a new phenomenon, unfortunately, the technological advancements of the last few years is putting into question just how far is too far? As noted by the Assembly Privacy and Consumer Protection Committee analysis of this bill:

“Employers are using more surveillance technology than ever — digital cameras, motion scanners, RFID badges, Apple Watch badges, Bluetooth beacons, keystroke logging — to track every single movement of workers in the office and to gauge their productivity. Some workplaces are using biometric data such as eye movements, body shifts, and facial expressions, captured by computer webcams, to evaluate whether or not their employees are being appropriately attentive in their work tasks. As an example, artificial intelligence (AI) systems at call centers record and grade how workers are handling calls. This technology can be used to ‘coach’ workers while they are talking to customers, telling them to sound happier or be more sympathetic. Another example is wearable technology that, among other things, tracks a worker’s movements throughout the day, gathering biometric data, measuring how many times they use the bathroom, how long they spend in break areas, and which employees are spending time together. According to the author, at least one company sells biometric ID badges with microphones, sensors, and other tools to record conversations, monitor speech, body movements, and location. Even body temperature, sweat, and frequency of bathroom visits can be tracked and analyzed by employers.”

Existing law generally allows employers to surveil their employees as long as they notify employees about their surveillance practices, including the places being monitored, and avoid restrooms, locker rooms or places where people change clothes. Some additional limitations and requirements apply for audio recording surveillance.

Prevalence:

A 2024 study by the Washington Center for Equitable Growth, which surveyed 1,273 workers and sought to estimate the prevalence of automated management and surveillance technologies at work and their impact on workers’ well-being, found that:

- 68.5 percent of workers reported electronic monitoring some or all of the time
- 36.8 percent reported productivity monitoring
- 44.6 percent reported camera monitoring
- 26.6 percent reported location monitoring
- 52.1 percent reported technology monitoring (for those who reported regularly using smartphones, tablets, or computers at work)

Unfortunately, “many workers may be unaware of the extent to which they are being tracked by their employer; only two states, Delaware and Connecticut, mandate that employers inform their employees of electronic tracking.”¹

Amazon is an extreme example of the extent that AI and workplace monitoring and surveillance has taken us. According to various sources, including a claim filed with the National Labor Relations Board by employees, Amazon tracks every minute that workers spend off their tasks.² Workers claim they get written warnings for every 30 minutes of time off-task and can be fired if they accumulate 120 minutes of time off-task in a single day or if they have accumulated 30 minutes of time off-task on three separate days in a one-year

¹ Ifeoma Ajunwa, Kate Crawford, and Jason Schultz, Limitless Worker Surveillance, 105 Cal. L. Rev. 735 (2017)., Available at SSRN: <https://theguardian.ssrn.com/abstract=2746211>

² The Guardian, Michael Sainato, May 21, 2024. “You feel like you’re in prison”: workers claim Amazon’s surveillance violates labor law.” <https://www.com/us-news/article/2024/may/21/amazon-surveillance-lawsuit-union>

period.³ Activities that amount to “time off task” include going to the bathroom, talking to another worker, or going to the wrong work station. Workers reported that they were afraid to go to the bathroom or get a drink of water for fear of being disciplined.⁴ In addition to tracking time off-task, Amazon also uses AI cameras at workstations to catalog worker mistakes.⁵ Monitoring the workers’ activities non-stop also helps improve the AI computer system, which learns from the responses of Amazon’s video reviewers and becomes more accurate over time.⁶

California Consumer Privacy Act (CCPA) and Worker Rights:

As of January 1, 2023, the CCPA covers employees of specified large employers by granting them certain rights and protections with regards to their privacy at work. Specifically, the CCPA grants workers, among other things, the right to know when their employers are collecting data on them, the right to access that data, the right to correct and delete data, and grants employees protections from retaliation for exercising these rights. The CCPA applies to a worker’s personal information, such as their IDs, demographics, employment-related data, biometric data, social media data, geolocation data, audio data, and any inferences about the worker’s characteristics and abilities, personal information like religious beliefs and sexual orientation, among other information.

Unfortunately, the CCPA only applies to employees at for-profit companies doing business in the State that meet one or more of the following qualifications⁷:

- Have more than \$25 million in gross annual revenue;
- Buy, sell, or share the personal information of 100,000 + consumers or households;
- Derive 50 percent or more of their annual revenue from selling or sharing consumers’ personal information;

In terms of enforcement, the CCPA applies to independent contractors, job applicants, former employees, and third parties that control the collection of an employer’s worker data, as specified. The California Privacy Protection Agency (CPPA) was created to enforce the CCPA and is able to investigate alleged violations and impose administrative fines. California’s AG is also authorized to enforce the CCPA. There is no private right of action except in cases of data breaches.⁸

Recent Legislative Efforts to Regulate AI

Over the last several years, the Legislature has considered a multitude of bills aimed at regulating AI and its use to ensure that the privacy rights of Californians continue to be protected. AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) was a crucial first step in regulating this technology by establishing key definitions, including a uniform definition for

³ Lauren Kaori Gurley, “Internal Documents Show Amazon’s Dystopian System for Tracking Workers Every Minute of Their Shifts” *Vice* (Jun. 2, 2022) <https://www.vice.com/en/article/internal-documents-show-amazons-dystopian-system-for-tracking-workers-every-minute-of-their-shifts/>

⁴ *Ibid.*

⁵ Niamh McIntyre and Rosie Bradbury, *The eyes of Amazon: a hidden workforce driving a vast surveillance system*, The Bureau of Investigative Journalism (Nov. 21, 2022) <https://www.thebureauinvestigates.com/stories/2022-11-21/the-eyes-of-amazon-a-hidden-workforce-driving-a-vast-surveillance-system/>

⁶ *Ibid.*

⁷ UC Berkeley Labor Center, Kung Feng, December 6, 2023. “Overview of New Rights for Workers under the California Consumer Privacy Act.” <https://laborcenter.berkeley.edu/overview-of-new-rights-for-workers-under-the-california-consumer-privacy-act/>

⁸ *Ibid.*

“artificial intelligence.” Other efforts attempted to regulate the industry by establishing requirements on the use of AI. For example, AB 2930 (Bauer-Kahan, 2024), which died on the Senate Inactive File, would have established the right of individuals to know when an Automated Decision System (ADS) is being used, the right to opt out of its use, and an explanation of how it is used.

There were several other bills in 2024, although the focus has mostly been on consumers and their technology rights, such as collection of social media data or the manipulation of elections news via fake postings. In the area of private sector labor and employment specifically, only one bill has attempted to regulate the use of AI. SB 1446 (Smallwood-Cuevas, 2024) attempted to address the issue by requiring, among other things, that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 was held in the Assembly Rules Committee.

Several other bills regulating AI are pending this year, including SB 7 (McNerney, 2025), which is pending in the Assembly Labor and Employment Committee, would be the first attempt at comprehensively regulating the use of ADS in the workplace. AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. AB 1355 (Ward, 2025), which was held under submission in the Assembly Appropriations Committee, would have prohibited the collection, sale, and sharing of individual’s location data, except under certain narrow circumstances.

AB 1221 (Bryan, 2025) which was specifically on workplace surveillance, was held under submission in the Assembly Appropriations Committee, but would have required an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice regarding the toll and intended uses. Additionally, the bill would have prohibited an employer from using certain workplace surveillance tools, including a workplace surveillance tool that incorporates facial, gait, or emotion recognition technology.

This bill:

Finally, this bill (AB 1331 Elhawary) would limit the use of workplace surveillance tools by employers, including by prohibiting an employer from monitoring or surveilling workers in employer-designated off-duty areas, as specified, and authorizing the use of such tools in certain circumstances.

2. Committee Comments:

As noted above, AI and workplace surveillance technology is being used in new ways that we had never previously imagined. This bill attempts to limit the ways in which surveillance tools are used to monitor and control workers in the workplace. Existing law requires employers to ensure a safe and healthful workplace, but this bill is crucial to ensuring workers are not monitored and surveilled to such extremes that their health and safety is put on the line. At the same time, we need to ensure that employers have the tools they need to ensure a safe workplace. It is imperative, for the sake of our workers and their livelihoods, that the Legislature take a proactive and measured approach to address the issue.

As conversations on this bill continue, the author and sponsors may wish to consider the following:

- A previous version of this bill authorized a worker to disable a workplace surveillance tool that is on their person during off-duty hours including meal periods in a worker's residence, personal vehicle, or property owned, leased, or used by a worker. The current version of this bill authorizes a worker to leave behind a workplace surveillance tool when entering off-duty areas and public bathrooms and *during off-duty hours*, as specified. The bill also specifies that an employer is not in violation of these provisions if "a worker *voluntarily* keeps a workplace surveillance tool on their person during off-duty hours."

Presumably, the author intends this provision to capture workers who have to take a workplace surveillance tool with them during off-duty hours, but what if the employer requires such equipment to stay with them during those off-duty hours? An employee may have a work laptop that they are required to keep with them at all times. A worker may have a badge that they need to take home in order to unlock the office the next day. *How would this bill's requirements and prohibitions apply in these types of circumstances?*

- The bill specifies that in addition to any other remedy, an employer who violates these provisions shall be subject to a civil penalty of five hundred dollars (\$500) *per employee for each violation*. In practice, if an employer were to violate these provisions, would the penalty amount to \$500 for each employee who appears in a surveillance video? Or, could it amount to \$500 for every employee in the workforce on that given day? *The author may wish to amend the civil penalty provisions further to ensure clarity.*
- The California Gaming Association, California Cardroom Alliance, and the Communities 4 California Cardrooms are seeking an exemption for licensed California cardrooms. They argue that this bill is in direct conflict with current gaming regulations and workplace safety laws, and would make it impossible for cardroom operators to comply with both existing law and this bill. They argue that video surveillance is uniquely crucial in their industry in order to deter money laundering and for law enforcement to go after criminals. *Whether the author decides to exempt this industry or not, the author may wish to amend the bill to at least specify that the bill's provisions do not prohibit any employer from using workplace surveillance tools as required by state and federal law and their implementing regulations.*

1563(d) This part does not prohibit any employer from using workplace surveillance tools as required by federal law or existing state law, **and their implementing regulations.**

- At the next opportunity for amendments, the author should make this technical fix:

1561(d) (2) Use workplace surveillance tools that passively surveil workers in **an area in** a work area not listed in paragraph (1) of subdivision (a) even if an off-duty

worker may be present, as long as the worker is made aware in advance that a workplace surveillance tool is in use.

3. Need for this bill?

According to the author:

“As technology’s capabilities have increased, employer surveillance of workers has increased. Recent reports from ExpressVPN found that close to 80% of employers use monitoring software to track employee performance. With employer surveillance on the rise, workers have limited access to spaces in their workplace, that are not under constant surveillance. Employers use workplace surveillance to track, monitor, manage, and prevent workers from advocating for their rights. The new surveillance state at the workplace has proven to increase psychological distress, stress, and lower job satisfaction among workers. Part of the stress stems from the invasiveness of surveillance technology that follows a workers’ every movement through wearable devices that eliminate the need for workplace cameras. Humanyze sells biometric ID badges with microphones, sensors, and other tools to record conversations, monitor speech, body movements, & location. Even body temperature, sweat, and frequency of bathroom visits can be tracked and analyzed by employers. Workers often don’t know how or when they’re being surveilled or what the employer is doing with that sensitive, personal data. ...

In 2018 Amazon patented a technology in the form of a wristband to be worn by warehouse workers with the intent of precisely tracking employees in warehouses. The tool could be used to track productivity but also to monitor for potential organizing. The tool allows supervisors to track where workers were at all times and could even determine how many ‘wristbands’ were together in a given location, tracking which workers were talking to each other. Amazon also developed a centralized AI system that can detect union-friendly phrases and behaviors in Amazon warehouses in real time. AI then analyzes the data to learn ‘how to devise strategies to neutralize their programmed target,’ which, in this case, is ‘workers in a break room’ who are potentially pro-union or at least, asking questions about their rights. Perceptyx – a company that collects and analyzes employee surveys, digital focus groups, and other information – said it could create a ‘union vulnerability index’ so employers can see which group of workers is at highest risk of unionizing. Wearables and other surveillance tools can be used to track which workers spend time together, giving employers another tool to union-bust.

The future of surveillance is also rapidly developing. A Swedish company called Biohax makes radio-frequency identification chips that can be implanted in workers instead of using key cards or other RFID devices at work. Several companies, including the Swedish railway, have adopted the technology and news outlets report that over 4,000 Swedes have opted to use the implantable devices which could easily be used at workplaces as well as train stations. This bill updates existing workplace privacy laws to cover new and developing high-tech surveillance tools.”

4. Proponent Arguments:

According to a coalition of proponents, including the sponsors, the California Federation of Labor Unions:

“Workplace surveillance is not a new phenomenon; employers have surveilled workers for decades with traditional cameras and microphones. However, today’s workplace surveillance capabilities differ in scale, speed, and invasiveness. Employers now have access to a plethora of military grade tools, such as wearable devices, to monitor worker biometrics, speech, and location, as well as heat and retina tracking technology. With the use of these powerful surveillance tools, workers have limited access to spaces in their workplace that are not under constant surveillance. A 2024 study found two-thirds (68%) of U.S. workers report at least one form of electronic monitoring. The study also found 88% of large companies (1000 or more workers) have some form of monitoring, compared to 43% in smaller organizations. Areas such as restrooms, lactation spaces, and worker lounges are not protected from being surveilled with advanced technology that does not rely solely on traditional audio or visual recordings. The new surveillance state at the workplace has proven to increase the likelihood of discrimination, harassment, and psychological distress of workers.

To protect worker privacy in sensitive areas and from developing implantable technology, AB 1331 will update and expand existing workplace privacy laws to address new powerful forms of surveillance technology. AB 1331 protects workers by prohibiting employers from using surveillance tools to monitor workers in employee-only, employer designated: restrooms, lactation spaces, changing areas, and locker rooms. AB 1331 also prohibits all methods of surveillance – except video surveillance for purposes of worker safety – in employee-only, employer designated cafeterias and break rooms. To prevent union busting, the video surveillance may not be AI-enabled or have audio capacity. Additionally, AB 1331 gives workers the right to leave behind any surveillance device, including wearables, trackers, company vehicles, or tools, in their possession when off-duty or when entering breakrooms, cafeterias, and bathrooms. Lastly, AB 1331 prohibits employers from requiring workers to implant or embed tracking devices in their body to ensure state law is ahead of technology being developed and tested currently. AB 1331 gives workers a break from the relentless surveillance and monitoring in the workplace so they can rest, talk, eat, and organize without the boss watching.”

5. Opponent Arguments:

A coalition of private employer organizations, including the California Chamber of Commerce, are opposed to the measure and write:

Regarding breakrooms and cafeterias:

“One of our primary outstanding concerns with AB 1331 is that Section 1561 prohibits monitoring or even reviewing security video footage unless one of two narrow exceptions is satisfied: 1) an employee who is in the video requests review or 2) law enforcement or a court requests review.

Break rooms and cafeterias are high-traffic areas. ... Unfortunately, our members have had many incidents occur in these areas, including: theft of personal belongings, theft of merchandise, harassment, suspicious personnel or active shooter alerts, bringing weapons into break rooms, stalking, bringing drugs or alcohol onto work premises, selling drugs on work premises, and physical altercations. We have serious concerns that prohibiting any active monitoring of these areas and severely limiting the circumstances under which footage can be reviewed will increase the frequency of these types of incidents. It also prohibits employers from responding in real time where they are alerted about an incident or there is an active shooter warning or an employee presses a panic button in or around those areas.

Further, its outright prohibition on the use of AI in video or the use of any audio, including audio analytics, would prohibit technology that allows employers to more quickly find suspicious personnel who may be on premises or suspicious activity.

While we understand the concern about using footage to spy on employees who may be organizing, the National Labor Relations Act (NLRA) already prohibits surveillance for this purpose. The NLRB has a long history of prohibiting the use of surveillance for purposes of infringing on employees' rights to organize.”

Regarding the use of video cameras:

“Pursuant to recent workplace safety legislation (SB 553 – Cortese [2023]) – and in response to multiple high-profile workplace violence incidents – California put into place a workplace violence regulation in 2024. ... Cal/OSHA is now in the rulemaking process, and one of their preferred developments from SB 553’s text *is to specifically push employers to use video cameras to monitor and record in the workplace to identify and respond to workplace violence.*⁹ Cal/OSHA’s draft regulation also requires employers to implement controls like cameras to ‘eliminate or minimize employee exposure to identified workplace violence hazards’ (section 3342(c)(10)(A)), including potential employee-on-employee violence, identified as ‘Type 3 violence’ in the regulation. Indeed, employers would be legally prohibited from monitoring cameras even if employees specifically asked them to due to a prior incident.

AB 1331 implicitly contradicts Cal/OSHA’s workplace safety draft by prohibiting employers from monitoring such cameras in two of the most common places for employees to gather in the workplace – breakrooms and cafeterias. In fact, a meal break in the cafeteria or break room may be the largest group gathering of the entire work shift, making it all the more likely for violence to occur there. For that reason, we see AB 1331 as contradicting the draft workplace safety regulation that Cal/OSHA is presently working on.”

Regarding the use of badges:

“While we appreciate recent amendments to ensure that there is no violation of the bill where an employee chooses to walk into certain areas with a badge (which may be a surveillance tool under the bill’s broad definition if it is also used to access secure areas), we do want to make sure that employers are also allowed to *require* identification like badges to be worn while anywhere on premises. This would include if an employee were on a lunch break or using the restroom or break room if they are on premises. Many employers like hospitals, schools, or others have such policies.”

Regarding the inclusion of independent contractors:

“The bill’s definition of ‘worker’ includes independent contractors, which should be removed from the bill. The above concerns are even more prominent when involving independent contractors. Contractors are often limited-term workers who are coming onto an employer’s premises to do a specific job. They are new to the workplace, and often are not previously known to the employer (or its employees, customers, patients, residents, pupils, etc.), so potential security risks are heightened. And, similar to the exempt employees discussed above, the very nature of an independent contractor means that the company does not have

⁹ See Cal/OSHA’s recent Revised Discussion Draft, released May 13, 2025, available at: <https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/>. Specific text at proposed section 3342(b)(3) – Engineering Controls – “...Video monitoring and recording ...”

control over their schedule. They can likely come and go as they please or take breaks at any time or place – making it impossible for an employer to even know when AB 1331’s prohibitions would go into effect.”

There is additional opposition from several public employer organizations, including the CA State Association of Counties and the League of CA Cities, who argue that the bill would vastly complicate the work of local governments, endanger their ability to perform essential public services, impede their ability to manage and respond to workplace violence threats, and make local governments vulnerable to waste, fraud, and abuse of public resources. In addition to similar concerns raised by private sector employers, they write:

“Unfortunately, we have seen rising hostility and threats against government entities and their workforces. That includes violence and threats of violence against government employees whose job requires them to serve the public, like library staff, teachers, firefighters, benefits officers, among myriad other examples. It also includes public officials who are frequently targeted with threats or actual violence, including election workers, health officers, and public officials. AB 1331 would heighten vulnerability for public servants at a time of strong anti-government sentiment.

The ability for employees to request video footage also raises critical privacy concerns about the disclosure of those in the footage, placing public agencies in the difficult position of potentially violating an employee’s privacy or incurring considerable costs to blur or pixelate the images of those in the footage.

To compound all of our concerns, AB 1331 imposes severe financial penalties for non-compliance. For public agencies, these penalties can be staggering and severely impact funds needed to provide essential public services. At a time of significant budget constraints at the state and local level, now is not the time to subject public agencies to nuclear fines for providing basic security measures.

We understand the sponsors are advancing this bill to address activities by private employers that use security tools to undermine efforts to organize a union, influence union elections, or retaliate against union leaders. Existing law already provides significant protections for public employee union activities. For example, Government Code § 3550 provides that a public employer shall not deter or discourage public employees, or applicants to be public employees, from becoming or remaining members of an employee organization. Section 3551.5 imposes significant penalties for violations of § 3550 and grants employee organizations standing to bring the claims.

Put simply, public agencies use the ‘surveillance tools’ defined in this law to protect public resources, employees, and the public – not to influence employee organization activities. We once again urge the author to amend the bill to remove public agencies entirely from its provisions.”

Lastly, there is opposition from the California Gaming Association, California Cardroom Alliance, and the Communities 4 California Cardrooms – in addition to the California Cities for Self-Reliance Joint Powers Authority representing some cities where these cardrooms are located – representing licensed cardrooms across the state who are seeking an exemption for licensed California cardrooms. They argue that this bill is in direct conflict with current

gaming regulations and workplace safety laws making it impossible for cardroom operators to comply with both regulatory requirements and this bill. They write:

“Licensed cardrooms are among the most heavily regulated workplaces in California. Our facilities are required by the California Bureau of Gambling Control and the California Gambling Control Commission to operate under strict surveillance protocols, including continuous video monitoring of gaming areas, cashier cages, and even employee-only areas such as break rooms. These measures are not optional—they are mandated by state law to deter criminal activity, ensure compliance with gaming regulations, and maintain the trust of law enforcement, the safety of our patrons, employees, and the public. ...

AB 1331 conflicts with new and existing Cal/OSHA workplace violence prevention requirements, including SB 553 (2023), which encourages employers to implement robust safety measures—many of which rely on continuous monitoring. It would also impede compliance with numerous public safety and regulatory standards mandated by Cal/OSHA, Title 31, and workplace violence prevention plans. Our industry takes these obligations seriously and must have the tools to meet them without facing lawsuits for simply protecting employees and the public. Even as proposed to be amended, the bill would still create areas where an employer could not adequately protect employees from workplace violence due to the bill’s desire to remove surveillance from areas where employees congregate.... In fact, this legislation could hamper Department of Justice and other law enforcement investigations were an incident to involve non-surveilled areas of a cardroom. These unique and cardroom-specific issues require careful consideration and a clean and clear exemption from the bill language both in print and as proposed to be amended.”

6. Double Referral:

This bill has been double referred and if approved by this Committee today, will be sent to Senate Judiciary Committee for a hearing.

7. Prior/Related Legislation:

SB 7 (McNerney, 2025), mentioned above, would regulate the use of automated decision systems (ADS) in the employment setting. *SB 7 is pending in the Assembly Labor and Employment Committee.*

SB 503 (Weber Pierson, 2025) would require the creation of an advisory board related to the use of AI in health care services. *SB 503 is pending in the Assembly Health Committee.*

AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. *AB 1018 is pending in the Senate Judiciary Committee.*

AB 1221 (Bryan, 2025) would have required an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice. The bill would have also prohibited an employer from using certain tools, including one that incorporates facial, gait, or emotion recognition technology. The bill would have required the LC to enforce these provisions, authorized an employee to bring a civil action for violations, and authorized a public prosecutor to also enforce these provisions. *AB 1221 was held under submission in the Assembly Appropriations Committee.*

AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) established a uniform definition for “artificial intelligence,” among other terms, in California law.

AB 2930 (Bauer-Kahan, 2024) would have regulated the use of ADSs in order to prevent “algorithmic discrimination.” This bill would have established the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used. *AB 2930 died on the Senate inactive file.*

SB 1446 (Smallwood-Cuevas, 2024) would have prohibited a grocery or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met. SB 1446 also included a requirement that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, must notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. *SB 1446 was held in the Assembly Rules Committee.*

Several other bills in 2024 addressed related AI issues including: SB 892 (Padilla), SB 893 (Padilla), SB 896 (Dodd), SB 942 (Becker), SB 1047 (Wiener), and AB 2013 (Irwin).

AB 331 (Bauer-Kahan, 2023) would have prohibited “algorithmic discrimination,” as specified. *AB 331 was held under submission in the Assembly Appropriations Committee.*

AB 302 (Ward, Ch. 800, Stats. 2023) required the California Department of Technology (CDT), in coordination with other interagency bodies, to conduct a comprehensive inventory of all high-risk automated decision systems (ADS) used by state agencies on or before September 1, 2024, and report the findings to the Legislature by January 1, 2025, and annually thereafter, as specified.

AB 701 (Gonzalez, Chapter 197, Statutes of 2021) proposed a series of provisions designed to ensure that the use of job performance quotas at large warehouse facilities do not penalize workers for complying with health and safety standards or taking meal and rest breaks. Among other things, this bill (1) required warehouse employers to disclose quotas and pace-of-work standards to workers, (2) prohibited employers from counting time that workers spend complying with health and safety laws as “time off task,” and (3) required the Labor Commissioner to enforce these provisions.

AB 13 (Chau, 2021) would have established the Automated Decision Systems Accountability Act, which would have promoted oversight over ADS that pose a high risk of adverse impacts on individual rights. *This bill was eventually gutted and amended to address a different topic.*

AB 1576 (Calderon, 2019) would have required the Secretary of Government Operations to appoint participants to an AI working group to evaluate the uses, risks, benefits, and legal implications associated with the development and deployment of AI by California-based businesses. *The bill was held under submission in the Senate Appropriations Committee.*

California Federation of Labor Unions (Sponsor)
Air Line Pilots Association, International
American Federation of State, County and Municipal Employees (AFSCME) California
Association of Flight Attendants - CWA
California Alliance for Retired Americans
California Coalition for Worker Power
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers AFL-CIO
California Immigrant Policy Center
California Nurses Association
California Professional Firefighters
California School Employees Association
California State Legislative Board of the SMART - Transportation Division
California State University Employees Union
California Teamsters Public Affairs Council
Center for Democracy and Technology
Center for Inclusive Change
Center on Policy Initiatives
Church State Council
Coalition for Humane Immigrant Rights
Coalition of Black Trade Unionists, San Diego County Chapter
Communications Workers of America, District 9
Community Agency for Resources, Advocacy and Services
Consumer Attorneys of California
Consumer Federation of California
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
International Cinematographers Guild, Local 600, IATSE
International Lawyers Assisting Workers Network
Los Angeles Alliance for a New Economy
National Employment Law Project
National Union of Healthcare Workers
Northern California District Council of the International Longshore and Warehouse Union
Oakland Privacy
Pillars of the Community
PowerSwitch Action
Rise Economy
San Diego Black Workers Center
Secure Justice
Service Employees International Union, California State Council
Surveillance Resistance Lab
Teamsters California
TechEquity Action
The Center for AI and Digital Policy
The Workers Lab
Transport Workers Union of America, AFL-CIO
UNITE HERE, AFL-CIO
UNITE HERE! Local 11
United Food and Commercial Workers, Western States Council

Utility Workers Union of America
Warehouse Worker Resource Center
Workers' Algorithm Observatory
Working Partnerships USA
Worksafe

OPPOSITION

Acclamation Insurance Management Services
ADT Security Services
Aerospace and Defense Alliance of California
Agricultural Council of California
Allied Managed Care
American Petroleum and Convenience Store Association
American Property Casualty Insurance Association
Anaheim Chamber of Commerce
Associated General Contractors of California
Associated General Contractors – San Diego Chapter
Association of California Healthcare Districts
Association of California School Administrators
Association of Orange County Deputy Sheriff's
Brea Chamber of Commerce
CalBroadband
Calforests
California Alliance of Family Owned Businesses
California Apartment Association
California Association of Health Facilities
California Association of Joint Powers Authorities
California Association of Licensed Security Agencies, Guards & Associates
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Attractions and Parks Association
California Automatic Vendors Council
California Bankers Association
California Beer and Beverage Distributors
California Cardroom Alliance
California Chamber of Commerce
California Cities for Self-reliance Joint Powers Authority
California Coalition on Workers Compensation
California Construction and Industrial Materials Association
California Credit Union League
California Farm Bureau
California Fitness Alliance
California Fraternal Order of Police
California Fuels and Convenience Alliance
California Gaming Association
California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California Landscape Contractors Association

California League of Food Producers
California Manufacturers and Technology Association
California Moving and Storage Association
California Pawnbrokers Association
California Pest Management Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California Statewide Law Enforcement Association
California Travel Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Communities 4 California Cardrooms
Construction Employers' Association
Corona Chamber of Commerce
County of Humboldt
Dairy Institute of California
Dana Point Chamber of Commerce
Flasher Barricade Association
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Housing Contractors of California
Insights Association
LA Canada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Livermore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Long Beach Police Officers Association
Los Angeles Area Chamber of Commerce
Morgan Hill Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Theatre Owners of California
National Electrical Contractors Association
National Health and Fitness Association
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Association of Building Service Contractors
Paso Robles and Templeton Chamber of Commerce
Public Risk Innovation, Solutions, and Management
Rancho Cordova Area Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redondo Beach Chamber of Commerce
Rural County Representatives of California

Sacramento County Deputy Sheriff's Association
San Diego Regional Chamber of Commerce
San Jose Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Security Industry Association
Sheriff's Employee Benefits Association
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
TechNet
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
United Contractors
Urban Counties of California
Valley Industry and Commerce Association
Walnut Creek Chamber of Commerce & Visitors Bureau
Western Car Wash Association
Western Electrical Contractors Association
Western Growers Association
Wilmington Chamber of Commerce
Wine Institute

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