SENATE RULES COMMITTEE SB 690
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 690
Author: Caballero (D), et al.
Amended: 7/2/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/29/25
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 35-0, 6/3/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Dahle, Durazo, Gonzalez, Grayson, Grove, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Weber Pierson, Wiener
NO VOTE RECORDED: Cervantes, Cortese, Hurtado, Reyes, Wahab

ASSEMBLY FLOOR: Passed, 8/28/26

SUBJECT: Crimes: invasion of privacy

SOURCE: Alliance for Legal Fairness

DIGEST: This bill eliminates the private right of action under the California Invasion of Privacy Act (CIPA) for violations of the pen register and trap and trace statute arising from conduct occurring on an internet website, online application, or mobile application, and instead authorizes only the Attorney General (AG) to bring such actions against private actors.

Assembly Amendments delete provisions related to the pen register and trap and trace statute, and remove definitions previously created by the bill.

ANALYSIS:

Existing law:

1) Establishes CIPA. (Penal (Pen.) Code, § 630 et. seq.)

2) Prohibits tapping into a telephonic communication system (wiretapping), as specified, without the consent of all parties. (Pen. Code, § 631, subd. (a).)

3) Makes a violation of this provision a wobbler (alternatively misdemeanor or felony) punishable by a fine not exceeding $2,500, or by imprisonment in the county jail up to one year, or by imprisonment in the county jail for 16 months, two years, or three years, or by both a fine and imprisonment. (Pen. Code, § 631, subd. (a).)

4) Authorizes an increased fine not exceeding $10,000 for a violation of wiretapping if the person has previously been convicted of violating these provisions or other specified statutes. (Pen. Code, § 631, subd. (a).)

5) Provides that the general prohibition against wiretapping does not apply to the following:

    a) A public utility, or telephone company, engaged in the business of providing communication services and facilities, or to their employees or agents, for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility or telephone company;
    b) The use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility; or,
    c) Any telephonic communication system used or communication exclusively within a state, county, city and county, or city correctional facility. (Pen. Code, § 631, subd. (b)(1)-(3).)

6) Exempts a commercial business purpose from the general prohibition against wiretapping.

7) Makes it a crime to intentionally and without the consent of all parties eavesdrop or record a confidential communication. (Pen. Code, § 632, subd.

(a).)

8) Makes a violation of this provision a wobbler punishable by a fine not exceeding $2,500, or by imprisonment in the county jail up to one year, or by imprisonment in the state prison for 16 months, two years, or three years, or by both a fine and imprisonment. (Pen. Code, § 632, subd. (a).)

9) Authorizes an increased fine not exceeding $10,000 for violation of eavesdropping or recording a confidential communication if the person has previously been convicted of violating these provisions or other specified statutes. (Pen. Code, § 632, subd. (a).)

10) Defines "confidential communication" as "any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded." (Pen. Code, § 632, subd. (c).)

11) Provides that the general prohibition against eavesdropping or recording a confidential communication does not apply to the following:

    a) A public utility engaged in the business of providing communication services and facilities, or to their employees or agents, for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility;
    b) The use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility;
    c) Any telephonic communication system used or communication exclusively within a state, county, city and county, or city correctional facility; or,
    d) The use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily inaudible to the human ear. (Pen. Code, § 632, subd. (e)(1)-(4).)

12) Prohibits, without the consent of all parties, intercepting or receiving and intentionally recording a communication between two cellular phones. (Pen. Code, § 632.7, subd. (a).)

13) Makes a violation of this provision a wobbler punishable by a fine not exceeding $2,500, or by imprisonment in the county jail up to one year, or by imprisonment in the state prison for 16 months, two years, or three years, or by both a fine and imprisonment. (Pen. Code, § 632.7, subd. (a).)

14) Authorizes an increased fine not exceeding $10,000 for violation of intercepting or receiving and intentionally recording a cellular radio communication if the person has previously been convicted of violating these provisions or other specified statutes. (Pen. Code, § 632.7, subd. (a).)

15) Provides that the general prohibition against intercepting or receiving and intentionally recording a cellular radio communication does not apply to the following:

    a) A public utility, or telephone company, engaged in the business of providing communication services and facilities, or to their employees or agents, for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility or telephone company;
    b) The use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility; or,
    c) Any telephonic communication system used or communication exclusively within a state, county, city and county, or city correctional facility. (Pen. Code, § 632.7, subd. (b)(1)-(3).)

16) Authorizes a person who has been injured by a violation of these prohibitions to bring an action against the person who committed the violation to enjoin and restrain the violation, as well as to bring an action for monetary damages, as specified. (Pen. Code, § 637.2.)

17) Prohibits the interception of electronic communications and prohibits the installation or use of a pen register or a trap and trace device without first obtaining a court order, except as specified. (Pen. Code, § 638.51, subds. (a) & (b).)

18) Makes a violation punishable by a fine not exceeding $2,500, or by imprisonment in the county jail not exceeding one year, or by imprisonment in the county jail for 16 months, two years, or three years, or by both that fine and imprisonment. (Pen. Code, § 638.51, subd. (c).)

19) Defines a "trap and trace device" as "a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication but not the contents of a communication. (Pen. Code, § 638.50, subd. (c).)

20) Defines a "pen register" for these purposes to mean a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted but not the contents of a communication, with specified exceptions. (Pen. Code, § 638.50, subd. (b).)

This bill:

1) Eliminates the private right of action in CIPA where the cause of action is against an internet website, online application, or mobile application for violation of the pen register statute, as specified.

2) Provides that it applies retroactively to any pending claim against an internet website, online or mobile application based on the pen register statute commenced within two years before January 1, 2027.

Background

CIPA Claims Being Filed. In August of 2024, the American Bar Journal published an article discussing the "recent wave of lawsuits and arbitration demands under the California Invasion of Privacy Act (CIPA)." (https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-august/californias-invasion-privacy-act/ [hereafter, ABA article].) As noted in the article, both large and small companies operating websites visited by California consumers have been receiving letters threatening litigation or lawsuits. In addition to criminal penalties for a violation of CIPA, CIPA allows an injured person to bring a cause of action for damages. (Pen. Code, §§ 631, subd. (a), 632, subd. (a), 632.7, subd. (a), 637.2.)

To understand why these lawsuits are being filed now, the author notes:

> The California Consumer Privacy Act (CCPA), amended by the California Privacy Rights Act (CPRA), pioneered broad privacy rights for consumers in the United States. Following California's lead, more

> than a dozen states have enacted similar comprehensive privacy laws. However, most of these state laws, including California's, do not provide a private right of action for violations except for data breaches under the CCPA. Critics argue that without a private right of action, these laws lack the necessary enforcement mechanisms to ensure compliance. In response, plaintiffs' attorneys in California have sought alternative legal strategies.
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> One such strategy involves invoking the CIPA, a decades-old criminal statute enacted in 1967 to prevent eavesdropping on telephone calls. This approach represents a novel attempt to bypass the limitations of the CCPA by leveraging a law designed for different circumstances, thus giving it a modern application in the digital age….
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> (https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-august/californias-invasion-privacy-act/, *supra*.) "The new CIPA cases focus on the alleged unlawful use of website tracking technologies, such as cookies, pixels, tags, and beacons, to collect and use personal information of people who visit these websites." (*Ibid*.) They argue for example, that website tracking technologies are illegal pen registers under CIPA. (*Ibid*.)

According to the article, these CIPA threatening letters, demands for arbitration, and claims do not appear to discriminate based on the company size or type of industry. (ABA article, *supra*.)

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:No

According to the Assembly Appropriations Committee:

Costs of up to approximately $1.5 million (General Fund) to the Department of Justice (DOJ), reflecting six positions and $150,000 in external expert costs beginning January 1, 2027. Within the Public Rights Division, the Consumer Protection Section would add two deputy attorneys general, two legal secretaries, and one senior legal analyst, along with the external expert costs, to investigate and enforce violations for which this bill makes the AG the exclusive enforcement authority. The Public Inquiry Unit within the Directorate Division would add one analyst to intake, process, and route related complaints and inquiries. DOJ reports the department could not absorb these costs within existing budgeted resources. Notably, the bill authorizes the AG to bring these actions but requires no enforcement activity of any kind. The volume and pace of enforcement, and therefore the resources needed to support enforcement, would remain within the AG's discretion.

Potential reduction in trial court workload and associated cost pressures (Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount. According to the bill's sponsor, approximately 4,000 lawsuits alleging CIPA violations have been filed against California businesses, the bulk of which assert pen register claims based on website tracking software. By eliminating the private right of action for these claims and applying that change retroactively to pending claims commenced within two years before the bill's operative date, this bill would remove a substantial volume of pending and future civil litigation from the trial courts. Although courts are not funded on the basis of workload, reduced pressure on the TCTF may reduce demand for increased General Fund support of the courts.

SUPPORT: (Verified 8/28/26)

Alliance for Legal Fairness (source)
Apartment Owners Association of California
Berkeley Chamber of Commerce
Calasian Chamber of Commerce
Calbroadband
California Black Chamber of Commerce
California Chamber of Commerce
California Hispanic Chamber of Commerce
California News Publishers Association
California Restaurant Association
California Retailers Association
Civil Justice Association of California
Ecommerce Innovation Alliance
Independent Insurance Agents & Brokers of California
Internet.works
LA South Chamber of Commerce
Los Angeles County Business Federation
National Federation of Independent Business
News Media Alliance
Silicon Valley Leadership Group
State Privacy and Security Coalition
Technet

OPPOSITION: (Verified 8/28/26)

AAPIS for Civic Empowerment
Access Reproductive Justice
ACLU California Action
AFM Local 7
AFSCME California
All Family Legal
AntiPolice-Terror Project
Asians American Advancing Justice Southern California
Asuc Sexual Violence Commission
Baynard Rustin LGBTQ Coalition
California Civil Liberties Advocacy
California Employment Lawyers Association
California Federation of Labor Unions
California Federation of Teachers AFL-CIO
California Initiative for Technology and Democracy
California Low-Income Consumer Coalition
Center for AI and Digital Policy
Center for Democracy and Technology
Coalition for Humane Immigrant Rights of Los Angeles
Consumer Attorneys of California
Consumer Federation of California
Consumer Reports
Courage California
Disability Rights
Economic Security California Action
Electronic Frontier Foundation
Electronic Privacy Information Center
Indivisible Sacramento
Justice2jobs Coalition
Kapor Center Advocacy
Laane (Los Angeles Alliance for a New Economy)
LGBT Tech
National Consumer Law Center
Nextgen California
Oakland Privacy
Orange County Rapid Response Network
Privacy Defense Alliance
Privacy Rights Clearinghouse
Rise Economy
Sacramento LGBT Community Center

Secure Justice
Survivors + Allies
Tech Oversight California
Techequity Action
Techtonic Justice
The Law Office of J.R. Howell
Ultraviolet
Viet Rainbow of Orange County
Warehouse Worker Resource Center
Working Partnerships USA
Youth Justice Coalition

Prepared by: Stephanie Jordan / PUB. S. /
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