Legislative Update & Authorization of CPPA Positions on Pending Legislation

May 1, 2025 Board Meeting

ROADMAP

**Federal update**

Multistate update

California update

- CPPA sponsored bill
- Bills CPPA is watching
- Bills recommended for Board action

FEDERAL UPDATE

- **Comprehensive federal privacy legislation**
  - House Energy & Commerce Committee Privacy Working Group – Request for Information
  - Comment submitted with NJ Attorney General

- **Consumer Financial Protection Bureau rulemaking regarding data brokers**
  - Proposed amendments to the Fair Credit Reporting Act rules making the law applicable to certain data brokers
  - Comment submitted

- **Monitoring federal privacy legislation**

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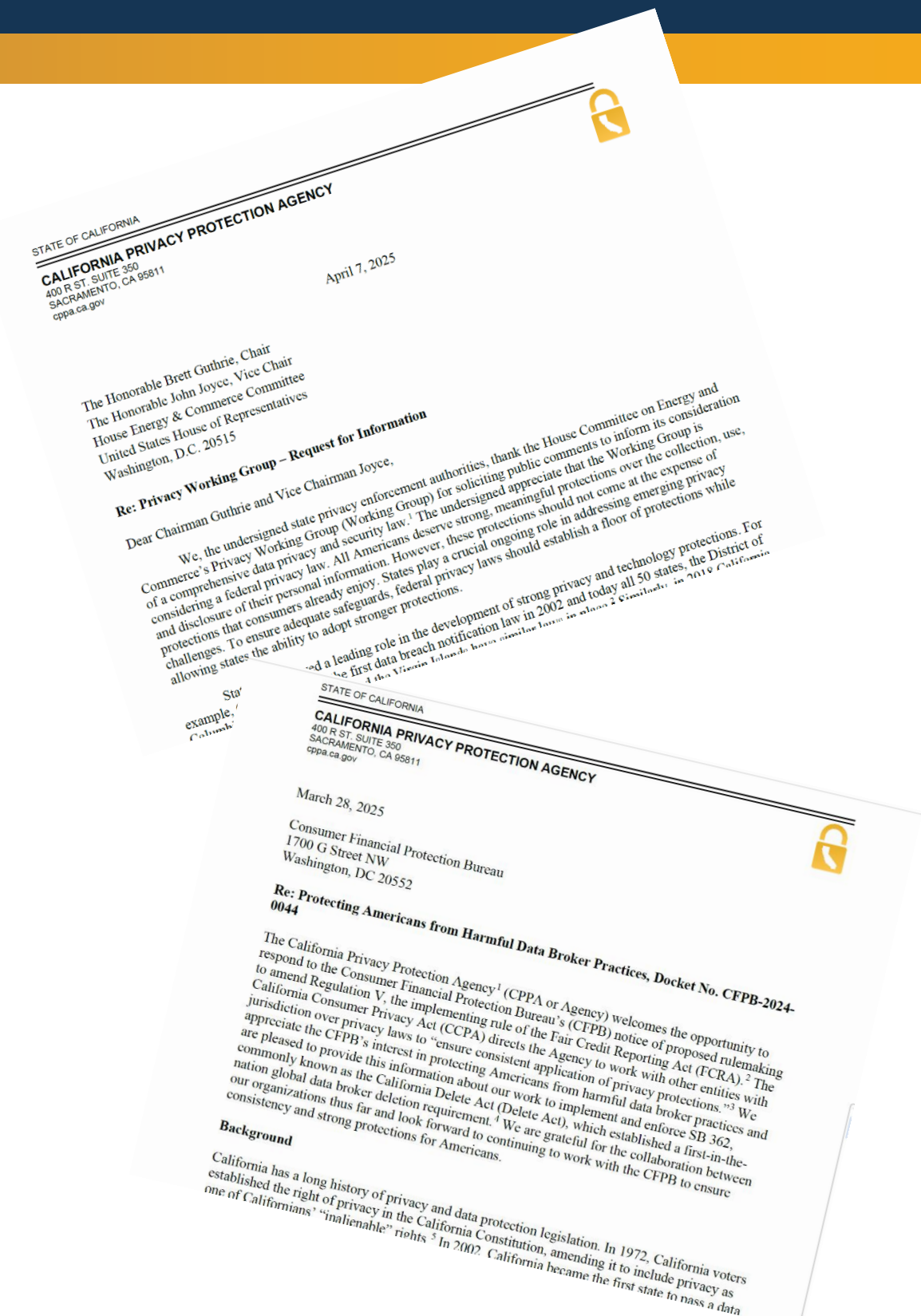
MULTISTATE UPDATE

> "Cooperate with other agencies with jurisdiction over privacy laws and with data processing authorities in California, other states, territories, and countries to ensure consistent application of privacy protections." §1798.199.40(i)

- **Comprehensive privacy bills**
  - 18 states introduced bills; 11 still pending

- **Delete Act style bills**
  - 3 states introduced bills; 1 still pending

- **ADMT bills**
  - 12 states introduced bills; 7 still pending

CA Legislative Session Timeline

May 2
Fiscal bills must be reported to Fiscal Committees

May 9
Non-fiscal bills must be reported to the Floor

May 23
Fiscal bills must be reported to the Floor

June 6
Deadline for each House to pass bills originating in their chamber

June - Sept
Committee process in opposing chamber

Sept 12
Deadline to pass bills

Oct 12
Deadline for Governor to sign or veto bills

CPPA Sponsored Bill – AB 566 (Lowenthal)

Opt-out Preference Signals

STATUS: The bill has passed the Assembly Appropriations Committee and is eligible for floor consideration.

Opt-out preference signals (OOPS) are a simple and easy-to-use way for consumers to opt-out of sale and sharing of their personal information

Receiving businesses are required to honor these signals. Most consumers don't have access to them because the major browsers have chosen not to offer them and don't allow third-party plug-ins for mobile versions

This bill addresses that by requiring browsers and mobile operating systems to offer opt-out preference signals

CPPA Watch Bills

ADMT, including employment surveillance
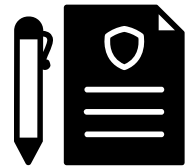
Insurance

Criminal law

CCPA amendment regarding foreign transfers

AB 1018 (Bauer-Kahan)
Automated Decision Systems

- Regulates development and deployment of ADS used for consequential decisions

- Developer obligations:
  - Performance evaluations before distribution or use

- Deployer obligations:
  - Pre- and post-use notice to consumers
  - Provide consumers rights to opt-out, correct information, and appeal decisions
  - Third-party impact assessments for high-use deployers

- Enforceable by AG, district attorneys, county counsels, city attorneys, city prosecutors, the Civil Rights Department, and the Labor Commissioner

Overlap with CCPA Proposed Regulations

- Regulates ADMT used for significant decisions
- Requires risk assessments
- Requires rights to opt-out and appeal

SB 420 (Padilla)
Automated Decision Systems

- Regulates development and deployment of "high-risk automated decision systems" and prohibits algorithmic discrimination

- Developer obligations:
  - Impact assessments
  - Implement governance program

- Deployer obligations:
  - Impact assessments
  - Notice to consumers
  - Provide consumers right to appeal decisions to human when feasible
  - Implement governance program

- Enforceable by AG and the Civil Rights Department

Overlap with CCPA Proposed Regulations

- Regulates ADMT used for significant decisions
- Requires risk assessments
- Requires rights of notice and appeal

SB 7 (McNerney)
Employment: Automated Decision Systems

- Regulates use of ADS in the employment context

- Pre- and post-use notices to employees required

- Employees granted rights of access, correction, and appeal

- Restrictions on how and when ADS may be used, including:
  - Human involvement required for hiring, promotion, discipline and termination
  - ADS may not obtain or infer sensitive data

- Enforceable by the Labor Commissioner and private right of action

Overlap with CCPA Proposed Regulations

- Regulates ADMT used for employment
- Requires rights of notice, access and appeal
- Establishes additional requirements and a PRA

AB 1064 (Bauer-Kahan)
Leading Ethical AI Development for Kids Act

- Establishes regulatory framework for AI products that are targeted at children, applied to children, or used to process children's data

- Establishes the LEAD for Kids Standard Board to develop regulations for the covered AI products, including identifying risk levels and prohibited practices

- Developer obligations:
  - Register system with new Board
  - Perform risk level assessment
  - Impact assessments if high-risk product
  - File incident reports with Board

- Requires consent to train models with children's data

- Enforceable by AG and private right of action

Overlap with CCPA Proposed Regulations

- Requires risk level assessment and impact assessments
- Requires consent to use children's data

AB 1221 (Bryan)
Workplace Surveillance Tools

- Governs public and private employers

- Establishes obligations for the collection, use, retention and sharing of information collected by workplace surveillance tools

- Employees must receive notice of surveillance tools and have the right to access and correct data collected by surveillance tools

- Restrictions on how data obtained from surveillance tools may be used (i.e. sharing, sensitive data inferences, etc.)

- Enforceable by the Labor Commissioner and private right of action

Overlap with CCPA

- Requirements regarding collection, use, and sharing of data collected about employees
- Overlap of rights granted to employees with respect to the data

SB 354 (Limon)
Insurance Consumer Privacy Protection Act

CCPA directs the Agency to develop regulations that would apply the CCPA to insurance companies to the extent the CCPA provides greater protections than the Insurance Code

Establishes new standards for the collection, processing, retention and sharing of consumers' personal information by insurance licensees and their third-party service providers

- Consumers' rights: notice, access, correct, amend, and delete

- Consumer consent required:
    - To use PI for non-insurance related purposes or for marketing purposes
    - To share PI

- Consumer right to be made aware of the reasons for adverse underwriting decisions

AB 364 (DeMaio)
Personal Information: Maintenance

Amends the CCPA:

- Requires notification if personal information is maintained outside of the US

- Requires consent to maintain personal information outside of the US

- Prohibits businesses from maintaining healthcare data, financial data, and geolocation data in the custody of a foreign government

Bills for Board Consideration

Five bills that directly affect the Agency

Amend the CCPA

Amend the Delete Act

Directs Agency to Act

Staff recommends taking a formal position on these bills

AB 1355 (Ward)
Location Privacy

Regulates the collection, use and sale of location information

Staff recommends a support position on this bill.

- Establishes data minimization and purpose limitation requirements on the collection and use of location data
- Requires notices and disclosures to consumers about the collection, use, and retention of location data
- Restricts the sale, trade, or sharing of location data
- Enforceable by AG, district attorneys, and CPPA; includes private right of action

SB 44 (Umberg)
Brain Computer Interfaces: Neural Data

Staff recommends a support position on this bill.

Amends the CCPA:

- Requires businesses that use a brain-computer interface to collect neural data to use that neural data exclusively for the purpose for which it was collected

- Requires neural data collected by brain-computer interface to be deleted once the purpose is accomplished

SB 361 (Becker)
Data Broker Registration: Data Collection

Amends the Delete Act:

> **Staff recommends a support position on this bill.**

- Requires data brokers to disclose whether they collect additional information when they register with the agency
    - Consumer's account login information
    - Government ID numbers
    - Citizenship data, including immigration status
    - Union membership
    - Sexual orientation
    - Gender identity and gender expression
    - Biometric data

SB 468 (Becker)
High-Risk AI Systems: Duty to Protect PI

Establishes comprehensive information security standards for personal information processed by AI systems

- Requires a deployer of a high-risk artificial intelligence system that processes personal information to develop, implement, and maintain a comprehensive information security program that contains specific administrative, technical, and physical safeguards

- The bill authorizes the CPPA to adopt regulations to implement the bill's provisions

- The bill is enforced under the Unfair Competition Law

Staff recommends a "support if amended" position on this bill – support if amended to grant CPPA enforcement authority.

SB 470 (Laird)
Bagley-Keene Open Meeting Act: Teleconferencing

Extends alternative teleconferencing provisions

- Current provisions of the Bagley-Keene Open Meeting Act permit state bodies to conduct public meetings via teleconference in accordance with specified procedures, including allowing some members of a body to participate from remote locations.

- These provisions are scheduled to sunset on January 1, 2026 and this bill extends these provisions until 2030.

Staff recommends a support position on this bill.