

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 161 (Ting) – As Amended April 2, 2019

**SUBJECT:** Solid waste: paper waste: electronic proofs of purchase

**SUMMARY:** This bill would, among other things, on and after January 1, 2022, require businesses to provide consumers electronic receipts only unless the consumer requests a paper receipt, or a paper receipt is otherwise required by law. Specifically, **this bill would:**

- 1) Beginning January 1, 2022, require a business to provide point-of-sale proof of purchase in electronic form unless:
  - the consumer requests a paper receipt;
  - a paper receipt is required by state or federal law; or,
  - the consumer declines to provide the information necessary to provide an electronic receipt.
- 2) Provide that the Attorney General, a district attorney, or a city attorney may enforce the provisions of the bill. Establish that the first and second violation shall result in a notice of violation, and any subsequent violation is an infraction punishable by \$25 per day, not to exceed \$300 annually.
- 3) Provide that nothing in the bill shall be construed to alter a consumer privacy protection required pursuant to the California Consumer Privacy Act of 2018 (CCPA).
- 4) Provide that nothing in the bill is intended to alter the consumer rights of individuals.
- 5) Exempt a business, as specified, that is requesting personal identification information that is necessary to provide the cardholder with a receipt in electronic form pursuant to this bill, from a prohibition on the collection of personal identification information as a condition to accepting a credit card payment in the Song-Beverly Consumer Warranty Act.
- 6) Define various terms for the purposes of the bill, including:
  - “Business” to mean a company that has more than \$1 million in gross receipts annually and accepts credit or debit card transactions. Business would not include a health care provider, under specified law.
  - “Consumer” to mean a person who purchases, and does not offer for resale, food, alcohol, other tangible personal property, or services.
  - “Electronic form” to mean including, but not limited to, a form sent through email or text message.

- 7) Make various declarations and findings related to paper receipts, including:
- Receipts generate 302,000,000 pounds of waste and 4,000,000,000 pounds of carbon dioxide, the equivalent of more than 425,000 cars on the road, and most paper receipts contain chemicals that would contaminate other recyclable paper materials.
  - Data from a company that provides mobile payment services shows that their sellers send over 10,000,000 digital receipts each month.
  - Prohibiting businesses from providing paper receipts except upon request would have significant positive environmental and public health effects.

**EXISTING LAW:**

- 1) Requires, except in specified situations, that retailers making sales of tangible personal property, shall collect the tax from the purchaser and give the purchaser a receipt, as specified. (Rev. & Tax Code Sec. 6203.)
- 2) Establishes CCPA and provides various rights to consumers pursuant to the act. Subject to various general exemptions, a consumer has, among other things:
  - the right to know what PI a business collects about consumers, as specified, including the categories of third parties with whom the business shares PI, and the specific pieces of information collected about the consumer;
  - the right to know what PI a business sells about consumers, as specified, including the categories of PI that the business sold about the consumer and the categories of third parties to whom the PI was sold, by category or categories of PI for each third party to whom the PI was sold;
  - the right to access the specific pieces of information a business has collected about the consumer;
  - the right to delete information that a business has collected from the consumer; and
  - the right to opt-out of the sale of the consumer's PI if over 16 years of age, and the right to opt-in, as specified, if the consumer is a minor; and,
  - the right to equal service and price, despite exercising any of these rights. (Civ. Code Sec. 1798.100 et seq.)
- 3) Defines various terms for the purpose of the CCPA, including defining "PI" to mean information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. PI includes specific types of information if it identifies, relates to, describes, is capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household. These include, for example:

- Identifiers such as a real name, alias, postal address, unique personal identifiers including telephone numbers, online identifier, Internet Protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers.
- Characteristics of protected classifications under California or federal law.
- Commercial information, as specified.
- Professional or employment-related information. (Civ. Code Sec. 1798.140(o) and (x).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Purpose of the bill:** This bill seeks to reduce paper waste in California by, among other things, requiring businesses to provide consumers with electronic receipts, unless the consumer requests a paper receipt. This bill is author-sponsored.
- 2) **Author's statement:** According to the author:

The Ecology Center's *More than you Bargained For: BPS and BPA in Receipts* found that 93 percent of paper receipts are coated with Bisphenol-A (BPA) or Bisphenol-S (BPS), chemicals which the United States Food and Drug Administration (FDA) has banned from baby bottles because they are known to disrupt hormones, causing cancerous tumors, birth defects, and other developmental issues.

These BPA- or BPS-coated receipts enter people's bodies simply by touching them. This poses a major risk to retail workers, who have 30 percent more BPA or BPS found in their bodies than others who do not have regular contact with receipts, according to the Environmental Working Group and the Center for Disease Control.

Additionally, *Skip the Slip: Environmental Costs & Human Health Risks of Paper Receipts with Proposed Solutions* by Green America found that over 3 million trees and 9 billion gallons of water in the United States are used to create proof of purchase receipts. These receipts generate 302 million pounds of waste and 4 billion pounds of carbon dioxide (CO<sub>2</sub>), the equivalent of more than 425,000 cars on the road.

Data from Square shows that their sellers send over 10 million digital receipts each month, a free service they provide to their sellers in order to reduce the amount of paper receipts being printed. [...]

Starting on January 1, 2022, this bill would require all businesses to provide proof of purchase receipts electronically unless the customer asks for a physical copy. The bill would allow for two warnings of violations and subsequent violations are subject to a \$25 fine for each day the business is in violation, with a maximum of \$300 per year.

- 3) **California is a leader in environmental protection:** California has long been a leader in environmental protection. Ten years after the passage of AB 32 (Nunez, Ch. 488, Stats. 2006), which required a sharp reduction of greenhouse gas emissions, California extended

and strengthened the limit on greenhouse gas emissions with the passage of SB 32 (Pavley, Ch. 249, Stats. 2016).

This Legislature has also passed a number of measures aimed at reducing waste in the state. An estimated 35 million tons of waste are disposed of in California's landfills annually, and the Department of Resources Recycling and Recovery is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro, Ch. 476, Stats. 2011) required commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro, Ch. 727, Stats. 2014) required generators of organic waste (*i.e.*, food waste and yard waste) to arrange for recycling services for that material to keep it out of the landfill.

More recently, the Legislature has passed bans on single use plastic bags and single use plastic straws. (*See*, SB 270 (Padilla, Ch. 850, Stats. 2014) and AB 1884 (Calderon, Ch. 576 Stats. 2018).) Related specifically to paper waste, Green America published research last year detailing the environmental costs and human health risks associated with paper receipts:

Paper receipts are tiny items with significant environmental impacts and health risks for workers and customers. Every year in the United States, receipt use consumes 10 million trees, 21 billion gallons of water, and generates 686 million pounds of waste and 12 billion pounds of CO<sub>2</sub>. Extraction and use of these resources takes a toll on the climate, a reminder that we need to continue replacing outdated, wasteful items with innovative solutions.

Receipts also pose considerable health risks to the people who regularly are in contact with them. An estimated 93 percent of paper receipts are coated with Bisphenol-A (BPA) or Bisphenol-S (BPS), known endocrine-disruptors which serve as color-developers to make the text appear on receipts. When we touch receipts, the chemical coating is absorbed into our bodies through our hands in mere seconds. Researchers at the New York State Department of Health documented connections between BPA exposures and developmental and neurological problems. BPA impacts fetal development and is linked to reproductive impairment, type 2 diabetes, thyroid conditions, and other health concerns. Companies have sought out "non-BPA" paper, but the typical replacement is BPS, a similar chemical which research indicates has similarly detrimental effects as BPA. (Porter and Tamsamani, *Skip the Slip Environmental Costs & Human Health Risks of Paper Receipts with Proposed Solutions*, Green America (May 10, 2018).) (Citations omitted.)

To combat the reported negative effects of paper receipts, this bill would, beginning January 1, 2022, require a business to provide a receipt in electronic form unless a consumer requests a paper receipt, a paper receipt is required by another law, or the consumer fails to provide the necessary PI in order for the receipt to be sent electronically. The bill would authorize public attorneys, such as the Attorney General, district attorneys, and city attorneys to bring actions for violations of the bills provisions. Seventh Generation Advisors, in support, write:

Today there are many alternatives to paper receipts that retailers are already using. Data from a point-of-sale platform that offers digital receipts shows that their sellers send over 10 million digital receipts each month.

AB 161 would require all businesses to provide proof of purchase receipts electronically unless the customer asks for a physical copy, starting on January 1, 2022. Reducing the number of paper receipts that are printed will protect the health of vulnerable populations, vastly cut down the amount of waste that we produce, and will also save millions of trees and billions of gallons of water each year. For these reasons, we are supporting AB 161.

- 4) **Privacy is a fundamental right:** Californians have enshrined the right to privacy in the state Constitution and California has consistently sought to set an example to other states through its prioritization of its residents' right to privacy. Specifically, since the right to privacy was expressly provided in the state constitution in 1972, the Legislature has continued to enact privacy protective laws, demonstrating how this fundamental right is protected. The Confidentiality of Medical Information Act limits the disclosure of patients' medical information absent their consent. The Computer Spyware Act prohibits an unauthorized person from knowingly installing or providing software on another's computer, as specified. (Civ. Code Sec. 56 et seq. and Bus. & Prof. Code Sec. 22947 et seq.) California also has specific privacy protections for victims of domestic violence, elder and dependent adult abuse, stalking, and human trafficking, and similarly provides address confidentiality for elected and public officials despite the public's interest in transparency. (Gov. Code Sec. 6205 et seq. and Gov. Code Sec. 6254.21.) The CCPA, enacted in 2018 to protect the privacy of consumers' PI when in the possession of businesses, represents the most recent example of a long and pioneering history of placing privacy above all but the most serious concerns.

Defining the appropriate balance between privacy interests and competing public policies (such as California's commitment to reducing waste, as discussed in Comment 3, above), can be difficult. In trying to strike an appropriate balance, the author recently amended this bill to ensure that businesses who collect email addresses or telephone numbers for the purpose of sharing a receipt are not in violation of the Song-Beverly Act, which prohibits the collection of any personal identification information (PII) as a condition of completing a purchase. PII, in this case, means information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder's address and telephone number.

While this amendment largely addressed an issue raised by retailers who expressed concern that compliance with this bill would likely ensure *noncompliance* with Song Beverly (and vice versa), the amendment did not similarly address privacy concerns which are implicated by the practice of requiring businesses to collect consumers' PI. As noted by the California Bankers Association, who oppose this bill unless amended to exempt ATM transactions from its requirements, "[t]his measure places an undo burden on banks that provide ATM services at their branch and non-branch locations. This is particularly true for out-of-network ATMs, also known as foreign ATMs, where a bank may not have any relationship with the consumer. In these instances, where a consumer may only utilize a bank's ATM once, when they do not have access to their own bank's ATM, the foreign bank will have no record of the consumer and certainly no email address where a proof of purchase can be sent." In other

words, this bill would require businesses to update their hardware and software to allow for consumers to input PI, even if the consumer only visits the business location once.

Arguably, this scenario raised by the Bankers Association would be present for *any* business that does not have a pre-existing relationship with a consumer, making this concern more far-reaching than just financial institutions. Regarding the collection of PI specifically to send a consumer an electronic receipt, the Electronic Frontier Foundation (EFF) opposes this bill unless amended to limit the use of email addresses and telephone numbers to that specific purpose. EFF writes:

Compelling businesses to collect personally identifiable information from their customers is a problem, particularly without additional assurances that this information will be protected. This collection will create new troves of sensitive personal information that will be gold mines for data brokers, debt collectors, and plain old spammers. While the CCPA gives consumers the rights to opt out of having their data sold and to delete their information, defaults matter. Many people will not be informed or determined enough to contact each brick-and-mortar business they visit in order to exercise their rights. [...]

We request that the bill require any personally-identifiable information collected in order to deliver an e-receipt be deleted as soon as it is used for that purpose. If data cannot be deleted immediately after a transaction, then the bill should be amended to require that consumers be asked explicitly to opt-in to any purpose a company may use their information for apart from sending a receipt.

The following amendment would further protect consumers by requiring that PI collected in order to comply with the provisions of this bill, may not be used for marketing purposes. Therefore, businesses that would like to use a consumer's email or phone number for a marketing purpose, would need to obtain it in a different way. Staff additionally notes that limiting how businesses may use this PI should also arguably encourage the deletion of the PI within a reasonable time to protect against liability from data breach and other privacy laws, discussed more in Comment 5, below.

Author's amendment:

Page 4, lines 14-18 are amended to read: "(D) The person, firm, partnership, association, or corporation is a business, as defined in Section 42359 of the Public Resources Code, and is requesting personal identification information that is necessary to provide the cardholder with a receipt in electronic form pursuant to Section 42359.1 of the Public Resources Code *and does not use the personal information for marketing purposes.*"

In support, Azul writes:

Azul is an environmental and environmental equity organization working to bring Latinxs perspectives and participation to ocean conservation and protection of coastal resources and marine life. As the only ocean conservation organization in the country that focuses specifically on working with Latinxs, we understand that the environment is a key concern for Latinx communities, that preserving the coasts and oceans is a key element of a healthy environment, and that we still need to make sure beach access is a reality for all

Californians. To achieve this, Azul works with communities, regulators and decision makers to promote these ideals whenever possible.

We appreciate the simple step AB 161 takes in reducing receipt waste by requiring businesses to provide a proof of purchase electronically, unless otherwise requested by a customer. We believe that this is an easy and effective way to minimize the amount of paper receipts produced and distributed, which will help prevent them from littering our state's parks, beaches, and oceans.

- 5) **Telephone numbers and email addresses are protected as “personal information” under law:** The CCPA, enacted last year provides consumers with numerous rights related to the collection and sale of their PI by certain businesses. Relevant to this bill, email addresses and phone numbers are covered under the CCPA's definition of “PI,” meaning that consumers are entitled to certain disclosures, have the right to opt-out of the sale of their PI, and may request that the business delete their PI. On this point, the California Retailers Association (CRA), opposing the bill unless amended, writes:

AB 161 raises makes compliance with the California Consumer Privacy Act (CCPA) more challenging for many businesses. [The] CCPA requires that businesses make specific disclosures before collecting any personal identifying information, including email addresses. That means before providing an electronic receipt upon purchase, a retailer would have to provide the disclosures first to the consumer. Educating retail clerks on how to communicate or explain legal privacy disclosures and having customers willing to stand there and read them or listen and sign consent would create impossible situations in some retail environments like express lanes, self service areas and gas stations.

Staff notes that businesses found to be in violation of the CCPA may be liable for up to \$2,500 per violation, or up to \$7,500 per intentional violation, in an action brought by the Attorney General, as specified. Under this bill, businesses would receive a warning for the first and second violations, and be liable for \$25 each day thereafter that the business is in violation, but not to exceed \$300 annually. As evidenced by language in the bill which provides that the bill shall not be construed to alter a consumer privacy protection required pursuant to the CCPA, the author does arguably not intend to put businesses in a position where they have to skirt their obligations under the CCPA in order to comply with the provisions of this bill. That being said, as a practical matter, businesses may be put in a position, should this bill be enacted, where they must choose compliance with one law over the other. As a matter of public policy, the author may wish to consider whether the goals of this bill or the CCPA are adequately met if Californian businesses cannot reasonably comply with both.

In addition, a coalition of companies, including the California Restaurant Association, Family Winemakers of California, CalChamber, and the National Federation of Independent Business (coalition) argue that AB 161 “also creates a new layer of liability regarding data security. While some large employers may have legal departments and in-house experts to protect against lawsuits, small businesses, especially minority-owned small businesses with language barriers, would be disproportionately impacted by potential lawsuits stemming from new data security threats under AB 161.” Similarly, Iconex, a provider of paper receipt and differentiated label solutions, argues in opposition that “AB 161 is based largely upon a May 2018 report issued by an advocacy organization called Green America. [...] The Green

America report cites data from Epsilon International regarding the number of retailers which offer digital receipts. Epsilon itself suffered a massive data breach in 2011 from which the names and addresses of millions of users were stolen. By fostering the unnecessary collection of new email and cell phone data, AB 161 places retailers and customers at increased risk of being part of a data breach event.” On this point, staff notes that relevant to this bill, under California’s Data Breach Notification law, “PI” encompasses an email address in combination a password or security question and answer that would permit access to an online account. (*See* Civ. Code Sec. 1798.81.5.)

Finally, as noted by the CRA, “retailers who send digital receipts by text message rather than email may run afoul of the Telephone Consumer Protection Act (TCPA). Under this federal statute, a company sending text messages to consumers via automated means, to market their goods and services, must be able to demonstrate the recipients expressly consented in writing to receive those messages. Violators can be sued for \$500-\$1,500 per violation, making them a ripe target for class action lawsuits. AB 161, as written, would arguably allow businesses to send e-receipts via text message. Retailers would have to receive customer consent every time a customer opted to receive an e-receipt.”

Inherent to all of these laws is the notion that widespread collection, aggregation, dissemination, and sale of consumers’ PI is not only likely a violation of one’s privacy, but is associated with an elevated risk of identity theft. Accordingly, these laws were enacted not only to create standards for how businesses should handle PI, but also to discourage the collection of consumer PI when not absolutely necessary. On this point, CRA offers an illustration of how this bill may unintentionally compromise the privacy of an individual living in the same household as her family. “AB 161 could have the unintended consequence of releasing what our customers might like to keep private. For example, if a teenager purchases a sensitive item, like a pregnancy test or a book about sexuality, the electronic receipt could be visible to other family members under the same account.”

In an effort to harmonize the waste reduction goals of this bill with the privacy rights of Californians, the following amendments would allow consumers to opt-out of receiving a receipt, be it paper or electronic. This should be particularly useful for small items that the consumer will not seek to return (*e.g.*, a cup of coffee), and is a model already used by some businesses, such as self-service gas stations. In the event that the consumer does want a receipt, by the year 2024, the business must offer an electronic or paper receipt. In the event that the consumer declines a receipt, the amendments would prohibit a business from printing one. In addition, the amendments would specify that electronic receipts need not be provided in the event of limited internet connectivity that renders sending a receipt impossible.

Author’s amendment:

Page 7, line 19 strike “for the retail sale of food, alcohol, or other”

Page 7, strike lines 20-28.

Page 7, line 29, strike “electronic form” and insert: “*shall be provided to a consumer by a business at the consumer’s option, unless a proof of purchase is otherwise required to be given to the consumer by state or federal law.*”



- (b) *A paper receipt shall not be printed if the consumer refuses to receive the proof of purchase, unless otherwise required by state or federal law.*
- (c) *On and after January 1, 2024, proofs of purchase requested by a consumer pursuant to subdivision (a) shall be provided in electronic form or paper form, at the consumer's option, unless a prescribed form is otherwise required by state or federal law. For the purposes of this subdivision, a business is not required to provide an electronic proof of purchase if, due to limited internet connectivity, the business is incapable of sending an electronic proof of purchase.*

In support, Green America writes, “[t]he Skip the Slip Bill is a commonsense measure to enhance sustainability and customer choice. Currently, many retailers provide customers with a paper receipt, whether the customer wants it or not. Skip the Slip puts the power in the hands of consumers to determine if they want a paper receipt or just an electronic receipt. Smart businesses are already moving in this direction and are finding that it meets customer needs and reduces business costs over time. This bill will place California in a leadership issue on this important issue.”

- 6) **Applies broadly to businesses in California:** This bill would apply to any business defined as a company that has more than \$1,000,000 in gross receipts annually and accepts payment through credit or debit transactions, however a business would not include a health care provider, as defined in the Health and Safety Code. By way of comparison, the CCPA defines a business as a for-profit legal entity, as specified, that has annual gross revenues in excess of \$25,000,000, or a business that buys or sells the PI of 50,000 or more consumers each year, or a business that makes over 50% of its annual revenues from selling consumers PI. (Civ. Code Sec. 1798.140(c).) California law, for the purposes of construction-related accessibility claims, distinguishes small businesses as businesses that employ 25 or fewer employees and have annual gross receipts of less than \$3,500,000, as specified. (Civ. Code 55.56(g)(2)(B).) These comparisons are provided as a demonstration of how this bill requires all but the smallest of businesses to offer electronic receipts. The Digital Receipt Coalition writes in support:

On an annual basis, California and other American retailers spend an estimated \$1.64 billion on thermal receipt paper, and they incur service fees to repair and maintain printers. They incur a one-time fee of approximately \$500 per printer to purchase the device and have it installed in each checkout lane. They also need to be replaced every 8-10 years.

Digital Receipts are very low cost, and in most cases, cost retailers nothing. We have identified 3 methods of digital receipt delivery: email, SMS (text), and archival. There is no incremental cost involved in sending emails or archiving digital receipts for user download. Text messages can cost as little as \$.005 or half a penny each. [...]

The ability to provide digital receipts is one of the most requested features for POS systems providers because consumers demand them. In fact, 77% of Americans have smartphones, and with constant connectivity, today's US consumers expect digital information in real time. Digital Receipts are easy to search and locate whether in your text feed or email list. Some retailers will even provide an online portal through their

website for consumers to access their digital receipts. In these instances, they can select No Receipt but still have a record of the sale in case of a return.

That being said, businesses of all sizes have raised concerns about their ability to comply with the requirements of this bill. Businesses have also noted that in some rural locations, internet access can be spotty or limited, making it difficult to consistently send electronic receipts. The coalition writes in opposition, “[b]usinesses, small and large, throughout the state use “point of sale” (POS) systems to manage a wide variety of financial information and document transactions by generating traditional receipts. Many of these POS systems are not currently equipped to generate electronic receipts. In order to comply with the requirements in AB 161, many businesses would have to replace their POS systems, disproportionately impacting smaller businesses and, depending on the number of registers, could impose massive costs on these businesses.”

The California Fuels and Convenience Alliance, also in opposition, writes, “[m]any gas stations and convenience stores provide the only available grocery options in California’s abundant food deserts. CFCA members proudly operate in underserved communities, including rural communities across the state where high-speed internet and smartphones aren’t everyday privileges for the residents. Customers are also very sensitive to sharing information like emails and phone numbers because of immigration status and privacy concerns. The introduction of a mandate on businesses to adopt new POS technologies for e-receipts does not have the best interest of these Californians at heart. It raises the cost of doing business in communities where it’s important to keep prices low.”

The Berkeley City Council writes in support that:

Receipt paper is wasteful to produce and dispose of. The solid waste of old receipts produces 12 billion pounds of carbon dioxide every year in American alone. When receipts are pprinted on thermal paper, the bisphenol A or bisphenol S can cause significant health defects. [...]

AB 161 would require all businesses to offer electronic receipts as a default, providing paper receipts only upon specific request. Businesses that do not comply would be issued nominal fines according to the California Retail Food Code. These small fines would lead to significant decreases in paper receipts, which will benefit human and environmental health across California.

Environmental Working Group, also in support, writes, “[t]oday there are many alternatives to paper receipts that retailers are already using. Data from a point-of-sale platform that offers digital receipts shows that their sellers send over 10 million digital receipts each month. Starting in 2022, AB 161 would require all businesses to provide proof of purchase receipts electronically unless the customer asks for a physical copy. Reducing the number of paper receipts will cut down the amount of waste that we produce, save millions of trees and billions of gallons of water each year, and reduce exposure to toxic chemicals.

- 7) **Additional concerns in opposition:** The California Grocers Association (CGA) opposes this bill and seeks an amendment to exempt their industry from its provisions. CGA writes:

The grocery industry has been a leader in statewide policy meant to reduce waste from the environment, most notably through supporting and working to pass the state's ban on single use plastic bags. But as it was with that landmark legislation, the key to enacting such a sweeping law is preemptively addressing unintended consequences. We believe that our industry faces one of these unintended consequences, ironically, because of the ban on single use bags at grocery stores.

Because many of our member companies have accustomed their patrons to bringing in their own bags or carrying their merchandise out without any bag, receipts are the only way for store employees to determine whether or not items have been paid for. Remember that for the most part, general merchandise retailers provide bags to their customers, which quickly allows for identification of people who have paid for merchandise. Grocers do not have that convenience.

While it may be simple to suggest that customers can show their receipts electronically, this may not be feasible. Aside from situations where internet or cellular connectivity may prevent someone from getting their electronic receipt or situations where a person may simply not have an electronic device, it is worth noting that a store employee cannot force a person to unlock their phone to show a receipt. With the increasing levels of shoplifting our member companies are experiencing, we fear that this measure will only exacerbate the problem.

Similarly, the California Pharmacists Association requests an exemption from the bill for pharmacies. The Electronic Transactions Association (ETA), a trade association for the payments industry, opposes this bill, arguing that it would have a negative impact on businesses and consumers alike. ETA notes that this bill would make many California merchants buy or lease new point of sale equipment or software, that collecting PI at the point of sale will likely increase checkout time and the number of customers merchants can serve, and that this PI collection will have data security implications. ETA also argues that the bill would require existing contracts to be altered. Specifically, ETA writes, “[t]o understand the significant challenges posed by this legislation it is useful to understand that merchant processing service agreements are typically negotiated between a merchant, acquiring bank, and acquirer processor. In most instances, the agreements are negotiated on an individual merchant basis and the terms are based on characteristics unique to that merchant. Merchant characteristics taken into consideration include goods and services offered, anticipated volume of debit and credit card transactions, and the complexity of the merchant’s business model. In many cases this legislation could require these contracts to be altered to provide new services and to purchase or lease new point of sale equipment at the costs of the merchant.”

8) **Prior legislation:** AB 375 (Chau, Ch. 55, Stats. 2018) *See* Comments 4, 5, and 6.

SB 1121 (Dodd, Ch. 735, Stats. 2018) ensured that a private right applied only to the CCPA’s section on data breach and not to any other section of the CCPA, as specified, corrected numerous drafting errors, made non-controversial clarifying amendments, and addressed several policy suggestions made by the AG in a preliminary clean-up bill after the passage of AB 375.

SB 270 (Padilla, Ch. 850, Stats. 2014) *See* Comment 3.

AB 1884 (Calderon, Ch. 576 Stats. 2018) *See* Comment 3.

- 9) **Double referral:** This bill was double-referred to the Assembly Committee on Natural Resources where it was heard on March 25, 2019, and passed on a 6 – 3 vote.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

350 South Bay Los Angeles  
American Sustainable Business Council  
Azul  
Breast Cancer Prevention Partners  
Californians Against Waste  
City of Berkeley  
Comcash  
Defenders Of Wildlife  
Educate. Advocate.  
Empower Family California  
Environmental Working Group  
Green America  
Receetme  
Seventh Generation Advisors  
South Bayside Waste Management Authority

**Oppose**

American Chemistry Council  
American Forest & Paper Association  
Appvion Holding Corp/Appvion Operations, Inc.  
BP America (Owner of AmPm Franchise)  
BP America, Inc.  
California Attractions And Parks Association  
California Bankers Association (*unless amended*)  
California Chamber of Commerce  
California Fuels And Convenience Alliance  
California Grocers Association (*unless amended*)  
California Manufacturers & Technology Association  
California Natural Gas Vehicle Coalition  
California Pharmacists Association  
California Restaurant Association  
California Retailers Association (*unless amended*)  
California Travel Association  
Camarillo Chamber of Commerce  
Cerritos Chamber of Commerce  
Domtar  
Downey Chamber of Commerce  
Electronic Frontier Foundation (*unless amended*)

Electronic Transactions Association  
Family Winemakers Of California  
Forest Products Industry National Labor Management Committee  
Gateway Chambers Alliance  
General Credit Forms, Inc.  
Greater Bakersfield Chamber of Commerce  
Greater Coachella Valley Chamber of Commerce  
Greater San Fernando Valley Chamber of Commerce  
Hansol America  
Iconex  
International Franchise Association  
Kanzaki Specialty Papers  
Koehler Paper Group  
Los Angeles County Business Federation  
National Federation of Independent Business  
National Federation of Independent Business - California  
North Pacific Paper Company, LLC  
Oxnard Chamber of Commerce  
Paperboard Packaging Council  
Pleasanton Chamber of Commerce  
Printing Industries of California  
Printing Industry Midwest  
Resolute Forest Products  
San Gabriel Valley Economic Partnership  
Specialty Graphic Imaging Association  
Specialty Roll Products, Inc.  
Twin Rivers Paper Company  
West Coast Lumber & Building Material Association  
Western Car Wash Association

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