



April 21, 2025

Senator Jesse Arreguin, Chair  
Senate Public Safety Committee  
1020 N Street, Room 545  
Sacramento, CA 95814

**Re: SB 690 (CIPA Reform) - Support**

Dear Chair Arreguin and Members of the Committee,

On behalf of the undersigned organizations, we write in strong **support** of **SB 690 (Caballero)**. This bill is necessary to stop the thousands of shakedown letters and lawsuits against California businesses of all sizes for typical business activities, like website analytics or online advertising that are already governed by the California Consumer Privacy Act (CCPA). In the last 18 months, trial lawyers have sued over 1,500 businesses using the California Invasion of Privacy Act's private right of action, arguing that these typical business activities constitute "wiretapping" or an illegal "pen register," necessitating "opt-in" consent before the business can, for example, save an online shopping cart or show an ad.

However, in 2018 the California Legislature specifically and unanimously decided that these business activities should be regulated by the CCPA, which is an "opt-out" consent regime. In 2020, the California voters added to the CCPA via ballot initiative, confirming their support of a system of "opt-out" consent, and, with it, further limits on data collection and use. The ballot initiative also added additional protections for certain categories of "sensitive data," such as health data, location data, and biometric data. The newly created California Privacy Protection Agency (Privacy Agency) has drafted over 150 pages of regulations on how businesses must implement this "opt-out" privacy regime. The Legislature is considering further legislation this year. Moreover, both the Privacy Agency and the Attorney General are empowered to enforce the statute, and the Attorney General's office has initiated enforcement actions against companies for violating these opt-out requirements. The Privacy Agency is also sponsoring legislation to further strengthen this opt-out regime. CIPA, a 1967 criminal wiretapping statute that requires consent before recording phone calls, was never intended to apply to this type of activity. These lawsuits are unfair and must be stopped.

## **The CCPA Governs Online Business Activity – Not CIPA**

Again, the Legislature unanimously passed the CCPA in 2018 to govern how businesses collect, use, and share consumers' information for typical business activity, such as website analytics and online advertising, and created an "opt-out" consent privacy regime. The Legislature considered and declined to follow Europe's GDPR privacy law's "opt-in" consent structure because of the cumbersome requirements necessary to click through before visiting every website. Subsequently, many other states followed California's first-in-the-nation privacy law.

Voters strengthened the CCPA in 2020 via ballot initiative to add heightened protections for sensitive information such as precise geolocation data and health-related data, and to expand the ability for consumers to use tools to opt-out of the sale/sharing of their personal information. The law provides a comprehensive regulatory framework that mandates clear notice and opt-out rights for consumers, ensuring that data privacy protections are enforced in a consistent and predictable manner. Businesses that comply with the CCPA follow stringent requirements regarding data collection, retention, and disclosure—yet, due to a handful of trial lawyers subverting the intent of CIPA, they are still being targeted with costly lawsuits for conduct that already falls within the CCPA's governance.

Moreover, the CCPA is highly specific in its treatment of sensitive data. The CCPA provides consumers with the ability to – and requires businesses to provide tools on their homepage that allow them to - limit the use of their sensitive data, which includes health data, biometric data, and precise geolocation data, offering strong privacy protections tailored to modern digital practices.

When it comes to this type of data and the use of common web technologies on websites, the legislature and the voters of this state intentionally chose to regulate those activities through the CCPA, and not to have a private right of action as an enforcement mechanism for violations of the law. Instead, it is actively enforced by two separate regulatory bodies:

- The California Privacy Protection Agency, which was created to implement and enforce the CCPA. The Privacy Agency is empowered to oversee business compliance, issue regulations, and impose penalties on organizations that violate the law.
- The California Attorney General retains authority to investigate and enforce violations of the CCPA, ensuring that companies adhere to the statute's robust consumer protections.

These enforcement mechanisms were specifically designed by the Legislature and California voters to regulate the exact types of data collection and digital interactions that are now the subject of opportunistic CIPA lawsuits. Allowing CIPA to be misapplied in this manner creates regulatory duplication, uncertainty, and unnecessary financial burdens for businesses that are already in compliance with an expansive and expensive privacy regime.

Businesses need certainty as to how to comply with privacy laws. Businesses have spent significant resources to comply with the CCPA, the Privacy Agency’s hundreds of pages of regulation, and guidance from the Privacy Agency and AG. It makes no sense – and is completely unfair – to require them to somehow implement a conflicting, 1967 criminal wiretapping statute designed for telephone wiretapping because of a handful of trial lawyers churning out lawsuits. Without this clarity, businesses will continue to face unpredictable and inconsistent legal risks, hampering compliance efforts and innovation.

**CIPA’s Private Right of Action is Being Abused in Ways Never Intended by the Statute.**

Beyond regulatory inconsistency, the unchecked barrage of CIPA lawsuits has done nothing to protect consumer privacy. Instead, these demand letters and lawsuits have created significant costs for California businesses, particularly small and mid-sized businesses – and non-profits – that lack the resources to defend against these claims. Trial lawyers have targeted businesses for using common digital tools such as chatbots—tools that are widely used to enhance user experience and do not constitute unlawful wiretapping or eavesdropping as originally intended under CIPA.

Trial lawyers have sued ***over 1,500 businesses since 2022***, and have sent thousands more demand letters.

***Failing to enact SB 690 will allow these lawsuits to proceed unchecked, allowing trial lawyers to force businesses into practices that conflict with the CCPA and create regulatory chaos in California.***

These lawsuits exploit the broad private right of action under CIPA to force businesses into costly settlements, diverting resources away from innovation and true consumer privacy protections. By ensuring that activities governed by the CCPA remain within the jurisdiction of the CCPA, SB 690 will restore legislative intent, prevent regulatory overreach, and protect businesses from abusive litigation tactics.

No California businesses is safe from these lawsuits. The trial lawyers have sued large and small businesses – and non-profits too. Our coalition of support includes news media, restaurants, broadband providers, retailers, and many small businesses. The broad scope of these lawsuits demonstrates that the misuse of CIPA affects the entire business community.

\* \* \* \* \*

For these reasons, we strongly support SB 690. This bill will provide much-needed clarity, reinforce California’s existing privacy enforcement mechanisms, and prevent the misuse of outdated statutes to regulate modern data practices. We appreciate your leadership on this issue and look forward to working together to ensure a fair, effective, and enforceable privacy framework for all Californians.

Respectfully submitted,

Alliance for Legal Fairness

Apartment Owners Association of CA

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 CA

LA South Chamber of Commerce

National Federation of Independent Business

News Media Alliance

Silicon Valley Leadership Group

State Privacy and Security Coalition

TechNet