

CALIFORNIA PRIVACY PROTECTION AGENCY

2101 Arena Blvd
Sacramento, CA 95834
www.cppa.ca.gov

**M e m o r a n d u m**

Date: July 26, 2022

To: California Privacy Protection Agency Board
(Meeting of July 28, 2022)

From: Maureen Mahoney, Deputy Director of Policy and Legislation

Subject: Recommended Agency position on legislation that seeks to preempt the CCPA or substantially limits California's current or future privacy protections

Description: Two new federal proposals seek to preempt nearly all provisions of the California Consumer Privacy Act of 2018 (CCPA). H.R. 8152, The American Data Privacy Protection Act (ADPPA), which has the support of the House Energy and Commerce Committee and Ranking Member Wicker of the Senate Commerce Committee, seeks to preempt nearly all provisions of the CCPA, as amended by Proposition 24, the California Privacy Rights Act of 2020 (CPRCA), and additional privacy legislation such as California's data broker registry law. California's private right of action for a negligent data breach, in Cal. Civ. Code Sec. 1798.150, is explicitly carved out, and provisions in the CCPA that govern protections of employees and students, for example, would continue to be valid.

A recently-circulated draft of a Senate bill, the Consumer Online Privacy Rights Act, authored by Senate Commerce Chair Cantwell, likewise has similarly sweeping preemption language. Other, similar bills may also arise.

As currently drafted, such legislation would compromise the Agency's ability to fulfill its responsibility to protect Californians' privacy rights under the California law.

Accordingly, staff suggests that the Board adopt the recommended position to allow staff to respond to these bills, or to other bills that have similar substantial effects on California law.

Recommendation: Oppose any bill that:

- Seeks to preempt the California Consumer Privacy Act (CCPA), or
 - Provides substantially weaker protections than the CCPA, as amended by the CPRCA; or
 - Prevents the Agency, California legislature, or voters through the ballot initiative, from strengthening the privacy protections for Californians in the future; or
 - Significantly compromises the Agency's authority or ability to fulfill its statutory responsibility and mandate on behalf of Californians.

Staff Contact:

Maureen Mahoney, Deputy Director, Policy and Legislation, maureen.mahoney@cppa.ca.gov