



July 19, 2022

The Honorable Nancy Pelosi
Speaker of the House of Representatives
1236 Longworth H.O.B.
Washington, DC 20515

RE: Federal Preemption of California's Landmark Privacy Law

Dear Speaker Pelosi:

A constitutional right to privacy is unique to California and has served as the basis for the many groundbreaking privacy laws enacted by the California Legislature over the years. In that spirit, we recognize and value the need to enact privacy protections for all Americans. Unfortunately, both the American Data Privacy Protection Act (ADPPA) and the Consumer Online Privacy Rights Act (COPRA) seek to preempt state laws, undermining the will of California voters and risking the policy innovation that drives the current fight to protect privacy for all Americans.

In 2018, the California Legislature passed with broad bipartisan support [AB 375](#) (Chau, Hertzberg), or the California Consumer Privacy Act (CCPA), establishing the most robust set of consumer privacy protections in the United States. That win for progress was short-lived.

After a series of attempts by opponents to undermine the law, supporters sought to enshrine those privacy protections in Proposition 24, California Privacy Rights Act (CPRA). From Santa Clara County to San Diego County and from Los Angeles to Lake County, [voters](#) across California affirmed their right to privacy.

Since the passage of CCPA/CPRA, four states have passed comprehensive consumer privacy laws, including Colorado, Connecticut, Utah, and Virginia, representing one in six United States residents. Six states have active legislation to establish [comprehensive consumer privacy rights](#), including Massachusetts, Michigan, New Jersey, North Carolina, Ohio, and Pennsylvania.

California's innovative privacy law has already led to major changes in the online experience for all Americans. Companies have defaulted to California's standards and have begun offering consumers greater control over their personal information. California remains at the forefront of

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new privacy challenges, with legislation that would require companies to design their products with kids in mind, place limits on in-vehicle camera use, restrict data collection from smart devices, and restrict the collection, use, and disclosure of personal information by educational proctoring companies whose student data collection practices fall outside of the Family Educational Rights and Privacy Act (FERPA).

The groundwork laid by these bipartisan authored and supported bills is jeopardized if a watered-down version of California's landmark legislation is enacted to preempt states from providing stronger privacy protections. Californians will immediately have less privacy protection.

Federal laws that allow states to provide stricter privacy protection have not disrupted the delivery of major services, including healthcare and financial services. If anything, the allowance for stronger privacy protections in the Health Insurance Portability and Accountability Act (HIPAA) and Gramm-Leach-Bliley Act (GLBA) further protect Americans' privacy. Limited exemptions to federal preemption invite litigation.

When administrations change, so does the interpretation of laws. Will the Federal Trade Commission (FTC) interpret the exemption from compliance with the ADPPA privacy protections for "serious physical injury" or "serious health risk" to include abortion or seeking out abortion services? Will guidance or regulations adopted by the FTC be thrown out based on recent EPA and SEC decisions? When technology changes and new privacy threats emerge, if Congress cannot get an agreement and states are preempted, who will protect Americans?

Over the last few years, Congress has held several hearings on consumer privacy and data security in the wake of Cambridge Analytica, discussing how algorithms foster discord, and how social media impacts [teen mental health](#). Despite the many revelations, Congress is poised to take action to forsake state privacy laws and limit further privacy protections to appease the very entities violating the public trust and who remain silent on whether they will keep [abortion-related searches](#) private.

A federal privacy law can coexist with state laws when constructed as a floor, allowing states to provide stronger privacy protection. Please stand with California voters and protect our privacy.

Sincerely,



ANTHONY RENDON
Speaker of the Assembly