

**Introduced by Senator Leno**

February 26, 2015

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An act to amend Section 22577 of, and to add Section 22575.1 to, the Business and Professions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 576, as introduced, Leno. Mobile applications: geolocation information: privacy.

Existing law requires an operator of a commercial Web site or online service that collects personally identifiable information through the Internet, about individual consumers residing in California who use or visit its commercial Internet Web site or online service, to make a privacy policy available to consumers and to include specified information relating to the collection of personally identifiable information within that privacy policy.

This bill would require the operator of a mobile application to provide clear and conspicuous notice that fully informs consumers when, how, and why their geolocation information, as defined, will be collected, used, and shared upon installation of the application. The bill would require the operator of a mobile application to obtain consent before collecting or using geolocation information and to obtain separate consent before disclosing that information.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 22575.1 is added to the Business and
- 2 Professions Code, to read:

1 22575.1. (a) An operator of a mobile application shall provide  
2 clear and conspicuous notice that fully informs consumers when,  
3 how, and why their geolocation information will be collected,  
4 used, and shared upon installation of the application.

5 (b) An operator of a mobile application shall obtain a user's  
6 affirmative express consent before collecting or using the user's  
7 geolocation information. The operator shall separately obtain the  
8 user's affirmative express consent before disclosing the user's  
9 geolocation information.

10 SEC. 2. Section 22577 of the Business and Professions Code  
11 is amended to read:

12 22577. For the purposes of this chapter, the following  
13 definitions apply:

14 (a) The term "personally identifiable information" means  
15 individually identifiable information about an individual consumer  
16 collected online by the operator from that individual and  
17 maintained by the operator in an accessible form, including any  
18 of the following:

19 (1) A first and last name.

20 (2) A home or other physical address, including street name and  
21 name of a city or town.

22 (3) An ~~e-mail~~ *email* address.

23 (4) A telephone number.

24 (5) A social security number.

25 (6) Any other identifier that permits the physical or online  
26 contacting of a specific individual.

27 (7) Information concerning a user that the *Internet* Web site or  
28 online service collects online from the user and maintains in  
29 personally identifiable form in combination with an identifier  
30 described in this subdivision.

31 (b) The term "conspicuously post" with respect to a privacy  
32 policy shall include posting the privacy policy through any of the  
33 following:

34 (1) A Web page on which the actual privacy policy is posted if  
35 the *Internet* Web page is the homepage or first significant page  
36 after entering the *Internet* Web site.

37 (2) An icon that hyperlinks to ~~a~~ *an Internet* Web page on which  
38 the actual privacy policy is posted, if the icon is located on the  
39 homepage or the first significant page after entering the *Internet*  
40 Web site, and if the icon contains the word "privacy." The icon

1 shall also use a color that contrasts with the background color of  
2 the *Internet* Web page or is otherwise distinguishable.

3 (3) A text link that hyperlinks to ~~a~~ *an Internet* Web page on  
4 which the actual privacy policy is posted, if the text link is located  
5 on the homepage or first significant page after entering the *Internet*  
6 Web site, and if the text link does one of the following:

7 (A) Includes the word “privacy.”

8 (B) Is written in capital letters equal to or greater in size than  
9 the surrounding text.

10 (C) Is written in larger type than the surrounding text, or in  
11 contrasting type, font, or color to the surrounding text of the same  
12 size, or set off from the surrounding text of the same size by  
13 symbols or other marks that call attention to the language.

14 (4) Any other functional hyperlink that is so displayed that a  
15 reasonable person would notice it.

16 (5) In the case of an online service, any other reasonably  
17 accessible means of making the privacy policy available for  
18 consumers of the online service.

19 (c) The term “operator” means any person or entity that owns  
20 ~~a *an Internet* Web site located on the Internet~~ or an online service,  
21 *including a mobile application*, that collects and maintains  
22 personally identifiable information from a consumer residing in  
23 California who uses or visits the *Internet* Web site or online service  
24 if the *Internet* Web site or online service is operated for commercial  
25 purposes. It does not include any third party that operates, hosts,  
26 or manages, but does not own, ~~a *an Internet* Web site or online~~  
27 service on the owner’s behalf or by processing information on  
28 behalf of the owner.

29 (d) The term “consumer” means any individual who seeks or  
30 acquires, by purchase or lease, any goods, services, money, or  
31 credit for personal, family, or household purposes.

32 (e) *The term “geolocation information” means information that*  
33 *can be used to identify the physical location of an electronic device*  
34 *or its user.*