

AMENDED IN SENATE JUNE 30, 1998
AMENDED IN SENATE JUNE 17, 1998
AMENDED IN ASSEMBLY MAY 5, 1998
AMENDED IN ASSEMBLY APRIL 28, 1998
AMENDED IN ASSEMBLY APRIL 15, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1792

Introduced by Assembly Member Havice
(Coauthors: Assembly Members Alquist, Leach, and
Washington)
(Coauthors: Senators Costa and Dills)

February 10, 1998

An act to add Section 637.7 to the Penal Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1792, as amended, Havice. Personal information: minors.

Existing law prohibits any person who owns, controls, operates, or manages a cable television corporation, or who leases channels on a cable system from providing any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber's television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or

information, or any other personal or private information, without the subscriber's express written consent.

This bill would make it a misdemeanor for any person who, in the course of business, provides lists of specified personal information, to fail to institute procedures by which a parent can request the removal of a child's name, as provided in writing, or to fail to obtain specified information from a first-time buyer. The bill also would make it a misdemeanor for any person who uses personal information about a child that was obtained for commercial purposes to directly contact the child or the child's parent to offer a commercial product or service to the child and to knowingly fail to comply with the parent's request to take steps to limit access to the child's personal information to authorized persons only, or to fail to institute procedures for removal of that child's name, as provided in the parent's written request. The bill would make it a misdemeanor for any person to knowingly use prison inmate labor or *knowingly use* any person who is registered, or who is required to be registered as a sex offender, for data processing of personal information about children, to provide these persons with access to this information, or to knowingly distribute or receive any personal information about a child with knowledge that the information will be used to abuse or physically harm the child. The bill would also exempt the sale of information to specified governmental, educational, professional, and nonprofit organizations from these provisions. *It would also exempt inmates of the California Department of Corrections who are participating in employment opportunities or public service activities.* By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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



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

1 SECTION 1. Section 637.7 is added to the Penal Code,
2 to read:

3 637.7. (a) Any person who, in the course of business,
4 provides mailing lists, computerized or telephone-based
5 reference services, or similar products or services
6 utilizing lists, as defined, knowingly does any of the
7 following is guilty of a misdemeanor:

8 (1) Fails to institute procedures to delete a child's
9 name from a list upon the written request of the child's
10 parent, as that name is specifically provided by the
11 parent.

12 (2) Fails, prior to selling or distributing a list to a
13 first-time buyer, to obtain the buyer's name, address,
14 telephone number, tax identification number if the buyer
15 is a forprofit entity, a sample of the type of material to be
16 distributed using the list, or to make a good-faith effort to
17 verify the nature and legitimacy of the business or
18 organization to which the list is being sold or distributed.

19 (b) Any person who uses personal information about
20 a child that was obtained for commercial purposes to
21 directly contact the child or the child's parent to offer a
22 commercial product or service to the child and who
23 knowingly fails to comply with the parent's request to do
24 any of the following is guilty of a misdemeanor:

25 (1) Take steps to limit access to personal information
26 about a child only to authorized persons.

27 (2) Institute procedures to delete a child's name from
28 a list upon the written request of the child's parent, as that
29 name is specifically provided by the parent.

30 (c) Any person who knowingly uses prison inmate
31 labor or *knowingly uses* any person who is registered or
32 is required to be registered as a sex offender for data
33 processing of personal information about children is
34 guilty of a misdemeanor.

35 (d) Any person who knowingly provides prison
36 inmate labor or *knowingly provides* any person who is
37 registered or required to be registered as a sex offender
38 with access to personal information about children is



1 guilty of a misdemeanor. *This paragraph shall not apply*
2 *to inmates of the California Department of Corrections*
3 *who are participating in employment opportunities or*
4 *public service activities.*

5 (e) Any person who knowingly distributes or receives
6 any personal information about a child with knowledge
7 that the information will be used to abuse or physically
8 harm the child is guilty of a misdemeanor.

9 (f) The following shall be exempt from subdivisions
10 (a) and (b):

11 (1) Any federal, state, or local government agency or
12 law enforcement agency.

13 (2) The National Center for Missing and Exploited
14 Children.

15 (3) Any educational institution, consortia,
16 organization, or professional association, which shall
17 include, but not be limited to, the California community
18 colleges; the California State University, and each
19 campus, branch, and function thereof; each campus,
20 branch, and function of the University of California; the
21 California Maritime Academy; or any independent
22 institution of higher education accredited by an agency
23 recognized by the federal Department of Education. For
24 the purposes of this paragraph, “independent institution
25 of higher education” means any nonpublic higher
26 education institution that grants undergraduate degrees,
27 graduate degrees, or both undergraduate and graduate
28 degrees, is formed as a nonprofit corporation in this state,
29 and is accredited by an agency recognized by the federal
30 Department of Education; or any private postsecondary
31 vocational institution registered, approved, or exempted
32 by the Bureau of Private Postsecondary Vocational
33 Education.

34 (g) As used in this section:

35 (1) “Child” means a person who is under 16 years of
36 age.

37 (2) “Parent” shall include a legal guardian.

38 (3) “Personal information” means any information
39 that identifies a child and that would suffice to locate and
40 contact the child, including, but not limited to, the name,



1 postal or electronic mail address, telephone number,
2 social security number, date of birth, physical description
3 of the child, or family income.

4 (4) "List" may include, but is not limited to, a
5 collection of name and address records of individuals
6 sharing a common interest, purchase history,
7 demographic profile, membership, or affiliation.

8 SEC. 2. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution because the only costs that may be incurred
11 by a local agency or school district will be incurred
12 because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition
16 of a crime within the meaning of Section 6 of Article
17 XIII B of the California Constitution.

18 Notwithstanding Section 17580 of the Government
19 Code, unless otherwise specified, the provisions of this act
20 shall become operative on the same date that the act
21 takes effect pursuant to the California Constitution.

