

SB 561 Held in Committee- Private Right of Action Under the CCPA Confined (for Now)

May 19, 2019 – The TMCA

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On Thursday, March 16, 2019, the California Senate Appropriations Committee held in Committee SB 561, which would have greatly expanded the private right of action (i.e., the ability to bring private class actions) available under the California Consumer Privacy Act (“CCPA”). SB 561 was introduced in February by California Attorney General (“AG”) Xavier Becerra and

Senator Hannah-Beth Jackson. Notably, the bill sought to amend the existing private right of action to cover all violations of the CCPA, as opposed to merely data breaches. Additionally, the bill would have discontinued the 30-day cure period, whereby businesses were immunized from penalization by the AG to the extent they were able to cure an alleged violation within 30-days’ notice thereof, and would have eliminated businesses’ and third parties’ entitlement to seek interpretive guidance regarding compliance from the AG (and instead would authorize the AG to publish general guidance).

Heard on April 29, 2019 by the California Senate Appropriations Committee, SB 561 was placed in the Committee’s Suspense File, which holds bills that will significantly impact the state’s budget. With a May 17 deadline to report bills to the Senate Floor, the Committee voted Thursday on the bills in the Suspense File, including SB 561. The good news for businesses covered by the CCPA was that the bill was held in Committee, meaning that it will not move forward this year.

The private right of action, and the potential for class actions, will therefore remain

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confined to the data breach context when private enforcement goes live on January 1, 2020.

The Dorsey Privacy Team is actively following legislative and regulatory developments in regard to the CCPA. Please check the blog for continued updates on developments as they arise.