



News

Senator Mark Leno

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Leno Bill Protects Against Warrantless Searches of GPS Data on Cell Phones

SACRAMENTO – Senator Mark Leno today announced the introduction of legislation that protects against warrantless government searches of a person's whereabouts and movements based on information received from an electronic device such as a cell phone. Senate Bill 1434 follows the lead of the U.S. Supreme Court, which recently ruled that it was unconstitutional for police to install a GPS (Global Positioning System) device on an individual's car without a warrant. The bill ensures that law enforcement agencies obtain a warrant before acquiring a person's location information from an electronic device.

"Our modern day smart phones and gadgets make it easy to get directions to just about anywhere, but they also track our every move and the people we connect with in our daily lives," said Senator Leno. "Unfortunately, California's privacy laws have not kept up with the electronic age, and government agencies are frequently accessing this sensitive information without adequate oversight. SB 1434 carefully balances privacy concerns to safeguard Californians against improper government intrusion while ensuring that law enforcement officials can still use this technology when it is needed to protect public safety."

The American Civil Liberties Union (ACLU) recently asked state and local law enforcement agencies across the nation about their policies for tracking cell phones. While some agencies said they obtain warrants based on probable cause before tracking, many acknowledged obtaining location data from cell phones without a warrant, often on a regular basis.

"Police are taking advantage of outdated privacy laws to use our mobile phones as tracking devices," said Nicole Ozer, technology and civil liberties policy director for the ACLU of Northern California, a co-sponsor of SB 1434. "Our mobile phones should be working for us, not the police. It's time to update California privacy law so it matches our modern mobile world and keeps our personal information safe from misuse."

"Location data can reveal an enormous amount of sensitive information about a person's religion, health, hobbies, and politics," said Hanni Fakhoury, staff attorney with the Electronic Frontier Foundation, a co-sponsor of SB 1434. "Police shouldn't be able to gather this information on a whim, without a judge checking to make sure the tracking is justified. Requiring a search warrant is an easy rule that balances the needs of law enforcement with the right to privacy inherent in the Constitution."

In addition to preventing warrantless searches of location information, SB 1434 protects against the abuses of long-term monitoring by limiting search warrants to a timeframe no longer than is necessary and not exceeding 30 days. The bill will be heard in policy committees in the Senate this spring.

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