



May 21, 2014

TO: Members, Senate Committee on Banking and Financial Institutions

FROM: California Chamber of Commerce
 California Attractions and Parks Association
 California Bankers Association
 California Hospital Association
 California Hotel and Lodging Association
 California Restaurant Association
 Electronic Transactions Association
 Internet Coalition
 MasterCard
 National Federation of Independent Business
 Orange County Business Council
 Simi Valley Chamber of Commerce
 The Internet Association
 TechNet
 Visa

**SUBJECT: SB 1351 (HILL) PAYMENT CARDS
 OPPOSE – AS AMENDED MAY 19, 2014**

We, the companies and associations listed above, **OPPOSE SB 1351 (Hill)**, relating to the issuance and acceptance of chip payment cards. The bill freezes in statute today's technology that will not keep up with future attacks by hackers and fraudsters. In addition, it sets back a more comprehensive national plan for issuing, accepting, and processing chip imbedded credit and debit cards. Further, it interjects needless litigation instead of a more workable liability responsibility set forth in the comprehensive national plan.

Moreover, the definition of “retailer” is so broad that it covers small stores, small restaurants, and non-profits. Finally, the bill does not apply to government entities, which experience numerous data breaches and subsequent credit and debit card fraud.

The bill specifically:

- Stifles fraud prevention innovation by requiring a specific form of technology and freezes it in statute. This static method of fighting fraud only helps the hackers and fraudsters that are using dynamic techniques to commit crimes while card issuers and anyone accepting payment cards will be hampered by an ossified command and control mandate. Unnecessary litigation will determine which technology is more secure than chip-imbedded cards
- Increases litigation costs for companies that do not have chip card readers by the deadline. This can open up a slew of lawsuits or threats of lawsuits by someone claiming harm because their credit card transaction was not processed via a more secure payment processor. Small to medium sized business would find themselves victims of industrious litigants seeking settlement payments even though the plaintiff suffered no financial hardship.
- Sets back a three-year comprehensive national plan by issuers, merchants, and card payment networks to migrate to chip imbedded cards by October 1, 2015 by interjecting unnecessary litigation. By attempting to override the national plan, this bill has the perverse effect of delaying issuance and acceptance chip imbedded credit and debit cards.
- Rejects the national liability shift that motivates migration towards chip imbedded card issuance acceptance. The liability shift in the comprehensive national plan shifts fraud liability to the entity that has the weakest fraud prevention methods. This bill deviates from that comprehensive framework by arbitrarily picking winners and losers in the national payment card ecosystem fight against card-present fraud.
- Exempts government entities from the issuance and acceptance mandates set forth in the bill. The state government is one of the largest processors of credit and debit card transactions in California. This bill does not extend the fraud prevention protections it forces on all credit and debit card accepting business in California.

For the reasons stated above, we strongly **OPPOSE SB 1351 (Hill)** and urge that you **VOTE NO** when it is considered before the committee.

cc: The Honorable Jerry Hill
Camille Wagner, Office of the Governor
Eileen Newhall, Senate Banking and Financial Institutions Committee
Kayla Williams, Senate Republican Caucus
Senate Floor Analyses
District Offices, Members, Senate Banking and Financial Institutions Committee