



**ELECTRONIC FRONTIER FOUNDATION**

Protecting Rights and Promoting Freedom on the Electronic Frontier

The Honorable Leland Yee  
State Capitol, Room 4074  
Sacramento, CA 95814  
Fax: 916.327-2186

**Re: Support SB 602 (Yee), The Reader Privacy Act**

Dear Senator Yee:

The Electronic Frontier Foundation is proud to sponsor SB 602 –The Reader Privacy Act- that would update reader privacy laws for the digital age by mirroring the strong privacy and free speech standards in California law. EFF is based in California in part because it is a forward-looking state – one that should also be on the vanguard of ensuring that the law matches the exciting new technologies that are being pioneered in Silicon Valley and beyond. SB 602 is such a bill and we thank you very much for championing it.

The books we choose to read reveal private information about our political and religious beliefs, health concerns, and our personal lives. Maintaining reader privacy is fundamental to the dignity of Californians and to ensure that they can continue to enjoy the full range of freedom of expression, inquiry and thought.

SB 602 arises out of the huge growth of digital books in the past few years. Digital books are now outselling paperbacks on Amazon.com, readers are turning to online services like Google Books, and analysts expect that over 18-million e-readers will be sold in 2012. However, digital book services, libraries and bookstores collect far more information about readers than physical bookstores and libraries ever did. This includes incredibly intrusive information – books browsed, how long a page is viewed, and even the notes written in the margins. This information can paint a strikingly intimate portrait of Californians, and, unfortunately, without legislative protection, presents an attractive target for government or private litigants.

The Reader Privacy Act would place California at the forefront of states in protecting California readers by ensuring that these government and third party litigants cannot access private reading records without proper justification. The bill permits disclosure of personal information related to reading records when an individual consents to the disclosure and where there are exigent circumstances. In addition, personal information must be shared when a government entity or private party obtains a warrant or court order upon a showing of a compelling interest, and the warrant or order is the least intrusive means to obtain the information desired. Notice and opportunity to contest the order must be given to the book seller or provider. In civil cases, the reader would have the notice and opportunity to contest; while in criminal cases, the reader would not necessarily be given advance notice. Ensuring notice where possible allows readers the reasonable ability to protect themselves.

Hon. Leland Yee

April 5, 2011

Page 2

The Reader Privacy Act would establish clear rules for businesses and standards for government and third party access to reader records. This would actually protect California's booksellers from an uncertain legal environment and set clear standards that can be relied upon by government and private litigants. Most importantly, under SB 602, Californians will be able to feel comfortable using new digital book services and technology without worrying that their personal information will be unprotected. California should take the lead in ensuring that Californians can enjoy all of the benefits of these digital reading technologies, many of which are being developed by California companies, while maintaining the high level of reading privacy that they have long enjoyed.

Please do not hesitate to contact me with any questions.

Sincerely,

ELECTRONIC FRONTIER FOUNDATION

A handwritten signature in black ink, appearing to read 'C.A. Cohn', with a long horizontal flourish extending to the right.

CINDY A. COHN  
Legal Director