



June 5, 2019

The Honorable Jim Beall
Chair of Senate Committee on Transportation
State Capitol Room 2082
Sacramento, CA 94249-0043

Re: A.B. 1112 (Friedman) – Support

Dear Senator Beall:

I write on behalf of the Electronic Frontier Foundation (EFF) in support of Assembly Bill 1112, as amended on June 3, 2019. EFF is a San Francisco-based non-profit organization that works to protect privacy and civil liberties in the digital age. EFF represents approximately 40,000 active donors and members, including thousands of supporters in California.

A.B. 1112, as currently drafted, takes a significant step toward protecting the location privacy of people across the state of California who rely on shared mobility devices. Specifically, the bill recognizes the sensitive nature of individual trip data and ensures that local authorities will receive only aggregated or non-identifiable trip data. We agree that local authorities should be able to collect some data in order to ensure that shared scooters and bikes are deployed safely, efficiently, and equitably—but local authorities should not need to collect sensitive, personally identifiable information about riders in order to do so. A.B. 1112 strikes the appropriate balance between protecting individual privacy and ensuring that local authorities have the information they need to regulate our public streets so that they work for all Californians. The bill also makes sure that local authorities will have the ability to impose fleet caps to decrease congestion, deployment requirements in low-income areas to ensure equitable access, and limits on device speed to ensure safety.

Individual trip information can be deeply revealing. As the United States Supreme Court recognized in *Carpenter v. United States*, time-stamped location data “provides an intimate window into a person’s life, revealing not only his particular movements, but through them his ‘familial, political, professional, religious, and sexual associations.’”¹ As the Court explained, “location records hold for many Americans the privacies of life.”² Indeed, time-stamped geolocation data could reveal trips to medical specialists, specific places of prayer, and specific neighborhoods or bars. Patterns in the data could reveal social relationships, and potentially even extramarital affairs, as well as personal

¹ *Carpenter v. United States*, 138 S. Ct. 2206, 2217 (2018) (quoting *United States v. Jones*, 132 S.Ct. 945, 955 (2012) (Sotomayor, J., concurring)).

² *Id.* at 2217 (2018) (internal quotations and citations omitted).

habits, such as when people typically leave for work, go to the gym, or run errands, how often they go out on evenings and weekends, and where they like to go.

Even with names stripped out, location information is notoriously easy to re-identify,³ particularly for habitual trips. This is especially true when location information is aggregated over time. As one 2013 study on human mobility data concluded, “human mobility traces are highly unique.”⁴ Researchers found that only “four spatio-temporal points [were] enough to uniquely identify 95% of the [1.5 million] individuals” in the study.⁵

A.B. 1112, as currently drafted, appropriately requires local authorities to collect aggregated or non-identifiable trip data for city-planning purposes. The biggest mistake local jurisdictions could make would be to collect data first, and think about what to do with it later—after consumers’ privacy has been put at risk. A.B. 1112 ensures that will not happen. A.B. 1112 thereby also ensures compliance with the letter and spirit of Article I, Section 1 of the California Constitution, which explicitly lists privacy as an inalienable right of all people⁶ and “prevents government and business interests from collecting and stockpiling unnecessary information about us” or “misusing information gathered for one purpose in order to serve other purposes[.]”⁷

Furthermore, by explicitly categorizing individual trip data as “electronic device information” as defined in California Penal Code § 1546(g), A.B. 1112 also avoids any conflicts with CalECPA and ensures that sensitive individual trip information will only

³ See CDT, Comments to LADOT on Privacy & Security Concerns for Data Sharing for Dockless Mobility (Nov. 29, 2018), <https://cdt.org/insight/comments-to-ladot-on-privacy-security-concerns-for-data-sharing-for-dockless-mobility/>.

⁴ See Yves-Alexandre de Montjoye et al., Unique in the Crowd: The privacy bounds of human mobility, *Scientific Reports* 3, Article Number 1376 (Mar. 23, 2013), available at <http://www.nature.com/articles/srep01376>.

⁵ See *id.* The study relied on 15 months of human mobility data for 1.5 million individuals, where the location of each individual had been specified hourly.

⁶ Cal. Const., art. I, § 1 (“All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, *and privacy.*”) (emphasis added); see also Civ. Code § 1798.1 (“The Legislature declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them.”).

⁷ *Hill v. National Collegiate Athletic Assn.*, 7 Cal. 4th 1, 17 (1994) (citation omitted; emphasis added).

EFF Letter re: A.B. 1112 – Support
June 5, 2019
Page 3 of 3

be shared with law enforcement under the clearly delineated circumstances set out by the California Legislature in that law.

Scooter-sharing services are proliferating in California cities, and local authorities should have the right to regulate their use. However, those efforts should not undermine riders' right to privacy. We support A.B. 1112, which strikes the right balance between the need to protect individual privacy and the need for local authorities to obtain the data they need for city planning purposes and is a significant step toward protecting the location privacy of Californians across the state who rely on shared mobility devices.

Should you have any further questions, please contact me at (415) 436-9333, ext. 164, or jamie@eff.org.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jamie Williams". The signature is fluid and cursive, with the first name "Jamie" written in a larger, more prominent script than the last name "Williams".

Jamie Williams
Staff Attorney
Electronic Frontier Foundation