

LEGISLATIVE DIGEST

[Police Code - Video Cameras Monitoring Shoppers' Movements in Retail Stores]

Ordinance amending the Police Code to require retail establishments that use video cameras to monitor a shopper's movements, as it relates to the shopper's interest in a product or range of products, to submit a letter to the City Administrator's Office; to post signage advising consumers about the collection and use of their personal information derived from video camera footage; and providing for administrative penalties, as defined herein.

Existing Law

The City does not presently have any laws relating to retail stores' data collection or privacy practices. Voters recently approved a charter amendment adopting a Privacy First Policy that provides guidance to the City when considering the adoption of privacy-protective laws. Charter § 16.130, adopted as Proposition B, Nov. 6, 2018.

Amendments to Current Law

The proposed ordinance applies to San Francisco retail stores that use video cameras to track shoppers' movements for profiling purposes. To our knowledge, only checkout-free stores currently use video cameras in this way, though it may be that not all checkout-free stores do so. "Checkout-free" means the store has no cashiers and no self-service cashier stations. Presently, several businesses operate checkout-free stores in San Francisco, but the most prominent is "Amazon Go," which sells a small selection of groceries and premade meals and snacks. To shop at Amazon Go, or any checkout-free store, shoppers take items directly from the shelves and simply walk out of the store. The store's video cameras and sensors on the shelves determine which items each shopper took, and the store automatically charges the shopper's credit card. The proposed ordinance addresses the use of video cameras to monitor shopper's movements relating to consideration or comparison of products, even if the shopper does not ultimately purchase the item.

The proposed ordinance would impose two requirements on any store using video data in this way:

- Before opening, or within seven days of the effective date of the proposed ordinance, the store must file with the City Administrator a letter containing information about their existence, location, ownership, and data collection policies; and
- The store must post signs inside and outside the store advising shoppers whether their physical movements inside the store will be monitored by video cameras; describing whether the store may retain or sell the data gathered by such monitoring; and describing the purposes for which the data may be used.

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A store in violation of either requirement would be subject to administrative penalties. The City Administrator will oversee enforcement of the proposed ordinance. The proposed ordinance does not apply to stores that use video cameras solely for security (e.g., to prevent shoplifting), or to confirm purchases (e.g., that the shopper took an item at a checkout-free store because they intended to purchase it).

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