



June 26, 2023

Joint Committee on Consumer Protection and Professional Licensure
Attn: Marissa Dakin and Dana Mascari
24 Beacon Street
Boston, MA 02133

Re: S. 148/H.357 - An Act protecting reproductive health access, LGBTQ lives, religious liberty, and freedom of movement by banning the sale of cell phone location information.

Co-Chair Cronin, Co-Chair Chan and Members of the Joint Committee on Consumer Protection and Professional Licensure:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully raise concerns with S. 148 and H. 357, as currently drafted.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms¹. CCIA strongly supports the protection of consumer data and understands that Massachusetts residents are rightfully concerned about the proper safeguarding of their data, particularly when it comes to sensitive information, such as geolocation data.

1. Amend the definitions of “location information” and “process” to promote interoperability.

In order to promote interoperability between states, which benefits consumers and operators alike, CCIA suggests amending the definition “location information” to mirror definitions used in other states (typically the term used is “precise geolocation information”). Example language is below:

“Precise geolocation information” means information derived from technology, including, without limitation, latitude and longitude coordinates at the level of detail typically provided by a global positioning system, that directly identifies the specific location of a natural person with precision and accuracy within a radius of 1,750 feet.

Currently, S.148/H.357 provides several exemptions to what is included in “location information” but does not include de-identified location data in that list. De-identified data is untraceable back to an individual person but instead can be a useful resource to businesses, non-profit organizations, and even municipalities who can use aggregated de-identified data to make a multitude of decisions, including where to establish a new store location or how best to deliver goods and services to communities that may need it the most, among other items. The exemption of de-identified data would not hinder these bills and the Legislature’s broader goal of

¹ For 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.



protecting consumer privacy and freedom of movement, while still enabling access to an important tool for government, non-profits, and the economy. Additionally, the definition for “location data” should include language that specifies that it does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

Additionally, CCIA suggests amending the definition of “process” in order to align with definitions used in other states. We suggest the utilizing the following language:

“Process” means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.”

2. Investing enforcement authority with the state attorney general and providing a cure period would be beneficial to consumers and businesses alike.

S.148/H.357 permits consumers to bring legal action against companies that have been accused of violating new regulations. By creating a new private right of action, the measure would open the doors of Massachusetts’ courthouses to plaintiffs advancing frivolous claims with little evidence of actual injury. Lawsuits also prove extremely costly and time-intensive – it is foreseeable that these costs would be passed on to individual consumers in Massachusetts, disproportionately impacting smaller businesses and startups across the state. Further, every state that has established a comprehensive consumer data privacy law – California, Colorado, Connecticut, Indiana, Iowa, Utah and Virginia – has opted to invest enforcement authority with their respective state attorney general. This allows for the leveraging of technical expertise concerning enforcement authority, placing public interest at the forefront.

CCIA recommends that the legislation be amended to include a cure period of at least 30 days. This would allow for actors operating in good faith to correct an unknowing or technical violation, reserving formal lawsuits and violation penalties for the bad actors that the bill intends to address. This would also focus the government’s limited resources on enforcing the law’s provisions for those that persist in violations despite being made aware of such alleged violations. Such notice allows consumers to receive injunctive relief, but without the time and expense of bringing a formal suit. Businesses would also be better equipped with the time and resources to address potential privacy changes rather than shifting focus to defending against litigation.

3. Sufficient time would be needed to allow covered entities to understand and comply with newly established requirements.

S.148/H.357 fails to provide businesses with a sufficient onramp to achieve compliance. CCIA recommends that any legislation advanced in Massachusetts include sufficient lead time to allow businesses to establish systems



to bring themselves into compliance with the new regulations, which is why we propose pushing back the effective date another six months to create an effective date eighteen months after enactment.

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We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the legislature considers proposals related to technology policy.

Sincerely,

Alex Spyropoulos
Regional Policy Manager, Northeast
Computer and Communications Industry Association