



July 15, 2026

Senator Cynthia Stone Creem
State House, Room 312-A
Boston, MA 02133

Representative Michael J. Moran
State House, Room 434
Boston, MA 02133

Senator Barry R. Finegold
State House, Room 109-D
Boston, MA 02133

Representative Tricia Farley-Bouvier
State House, Room 274
Boston, MA 02133

Senator Patrick M. O'Connor
State House, Room 419
Boston, MA 02133

Representative David T. Vieira
State House, Room 167
Boston, MA 02133

Dear Members of the Conference Committee on Data Privacy,

As leaders of Massachusetts-based business, trade, nonprofit and employer associations, collectively representing thousands of employers across the Commonwealth, we write to express strong preferences for certain policies as you begin the conference process to reconcile the

differences between S.2516 and H.5479, An Act establishing the Massachusetts consumer data privacy act.

We recognize the importance of consumer data privacy and support a framework that includes a consistent, thoughtful and comprehensive approach to safeguarding consumers' privacy, expanding consumers' rights, and protecting personal information. We also believe that any data privacy approach must be – and can be – balanced with employer feasibility, limiting compliance costs and avoiding unintended consequences that negatively impact the state's economic competitiveness and our world-class innovation ecosystem.

We appreciate the substantial changes made by both the House and Senate throughout the legislative process to address the concerns of our employer members. Despite these efforts, however, we remain concerned that the current versions of the proposed Massachusetts data privacy legislation would place small, medium-sized, and large employers operating in the Commonwealth at a significant competitive disadvantage unless two key provisions – one from each bill – are incorporated into the final legislation.

Specifically, we urge the conference committee to adopt the enforcement framework contained in S.2516, which does not include a private right of action, as well as the data minimization provisions set forth in H.5479. We believe these two critical policy choices will help preserve Massachusetts' economic competitiveness while continuing to provide consumers with strong and historic privacy protections.

I. Private Right of Action

We support the S.2516 approach to enforcement, which grants the Attorney General exclusive jurisdiction for prosecuting violations of the legislation. H.5479 allows for a private right of action against “large data holders”, which we believe presents an existential threat to the Massachusetts economy and therefore we strongly oppose that provision.

The proposed private right of action would expose Massachusetts employers to substantial litigation risk and could create significant uncertainty for employers operating in the Commonwealth. It would also make Massachusetts an outlier nationally, as no other state has adopted a broad private right of action to enforce a comprehensive data privacy statute. We believe the Attorney General is best positioned to serve as an impartial and effective enforcement authority, ensuring that the law is implemented fairly, consistently, and in a manner that protects consumers while providing clear expectations for our members.

Private enforcement will not result in better outcomes for consumers. Instead, it is likely to lead to the establishment of a cottage industry of plaintiffs' lawyers who will intentionally and directly target employers under a new law. This will increase litigation against our members, including small businesses and start-ups that may lack the resources to defend against costly legal challenges.

Massachusetts has already seen similar efforts in the privacy arena, buttressed by many advocates of this bill, where plaintiffs sought to advance policy objectives through litigation under the state's Wiretap Act, including lawsuits against healthcare providers. Although those efforts were ultimately unsuccessful, they imposed significant legal costs on the organizations involved. This

experience illustrates the potential consequences of creating a private right of action in a comprehensive data privacy statute, where the threat of costly litigation could divert resources away from innovation, growth, and consumer-facing investments.

A private right of action will expose employers of all sizes to massive new liability risks regardless of whether they are large data holders. Anyone sued for a data privacy violation will need to affirmatively demonstrate that it does not meet the large data holder threshold. In practice, a defendant that cannot quickly and conclusively prove that it falls below those thresholds faces immediate exposure to private litigation, regardless of the merits of the underlying claim. This will cost our members time and money, and many will simply settle claims regardless of the merits.

We continue to express strong opposition to any private right of action, and instead, support enforcement powers being solely granted to the Attorney General, as they are in S.2516.

II. Data Minimization

We support the H.5479 approach and corresponding language to establish a new data minimization standard over the S.2516 standard which we oppose. In short, the S.2516 data minimization standard is based on an untested Maryland statute which limits the collection of personal data to what is reasonably necessary to provide or maintain a specific product or service requested by the consumer.

The data minimization standard contained in S.2516 raises significant concerns and, as currently drafted, could result in substantial unintended consequences for both consumers and employers. In particular, the requirement that data collection and use be limited to what is “requested by the consumer” is ambiguous and could create considerable legal uncertainty, increasing the likelihood of litigation over its interpretation and application.

Additionally, this approach could meaningfully alter the online services and experiences that Massachusetts consumers currently use and value, without clear evidence that such restrictions are necessary to achieve the bill’s consumer protection objectives. The proposed standard would also present significant challenges for small and medium-sized businesses, as well as nonprofits which rely on access to consumer data to engage in effective and cost-efficient digital advertising. Limiting these capabilities could reduce their ability to reach prospective customers, placing them at a competitive disadvantage and making it more difficult for consumers to discover relevant products and services.

By contrast, the data minimization framework contained in H.5479 reflects an emerging regional approach to privacy regulation and establishes a standard that our members can reasonably implement and comply with. The language is substantially similar to Connecticut’s data minimization requirements, which would help promote greater consistency across state regulatory regimes and reduce compliance burdens for employers operating throughout the region. Adopting this approach would allow Massachusetts to strengthen consumer privacy protections while minimizing unnecessary costs and complexity for employers.

Thank you for your consideration of these comments. Employers across Massachusetts – from Main Street retailers and emerging startups to regional employers and global innovators – need a data privacy framework that is balanced, practical, and effective. Legislation that is clear and consistent will enhance consumer trust while preserving the competitive environment that enables employers throughout the Commonwealth to build and grow here. We stand ready to work with the Legislature in a collaborative effort on this important matter.

Sincerely,

Brooke Thomson, President & CEO
Associated Industries of Massachusetts

James E. Rooney, President & CEO
Greater Boston Chamber of Commerce

JD Chesloff, President & CEO
Massachusetts Business Roundtable

Jon B. Hurst, President & CEO
Retailers Association of Massachusetts

Jonathan Butler, President & CEO
IBerkshire

Paul Niedzwiecki, CEO
Cape Cod Chamber of Commerce

Greg Reibman, President & CEO
Charles River Regional Chamber

Michelle Mercier, President & CEO
Marlborough Regional Chamber

Kendalle Burlin O’Connell, CEO & President
MassBIO

Chris Anderson, President & CEO
Massachusetts High Tech Council

Christopher Stark, Executive Director
Massachusetts Insurance Federation

Jim Klocke, CEO
Massachusetts Nonprofit Network

Brian Johnson, President
Massachusetts Medical Device Industry Council

Doug Howgate, President & CEO
Massachusetts Taxpayers Foundation

Sara Fraim, CEO
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Maura Mann, President
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Tamara Small, CEO
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Christopher Carlozzi, State Director
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Timothy O. Wilkerson, President
New England Connectivity and Telecommunications Association

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