



July 24, 2024

The Honorable Karen Spilka, President  
Massachusetts State Senate  
State House, Room 332  
Boston, MA 02133

The Honorable Michael J. Rodrigues, Chair  
Senate Committee on Ways & Means  
State House, Room 212  
Boston, MA 02133

The Honorable John Cronin, Chair  
Senate Committee on Consumer Protection & Professional Licensure  
State House, Room 218  
Boston, MA 02133

**RE: Location Data Privacy**

Senate President Spilka, Chair Rodrigues, and Chair Cronin:

On behalf of CTIA®, the trade association for the wireless communications industry, I write on the issue of data privacy and offer clarifying amendments to H.4844 that would improve the bill’s effectiveness while maintaining its intent and goal to protect individuals seeking reproductive health services and gender affirming care. Our members support strong consumer privacy protections, including empowering consumers with the rights necessary to control their data. As the existing bill is drafted, we are concerned that this legislation would create inconsistent protections for Massachusetts consumers by focusing exclusively on location information with an overbroad definition. Our members agree that precise geolocation information is sensitive personal data, including when it is used to make a determination about a consumer’s access to reproductive or gender-affirming care location information. The bills’ definition for covered location information, however, has sufficient overbreadth that it could be interpreted to apply sensitive data protections for location information even when it is not used to make such health determinations. This could unnecessarily impede and interrupt consumer services, such as the ability to make and receive phone calls. To avoid this, we have proposed amendments to clarify the bill’s scope and requirements while still accomplishing the goal of protecting sensitive health data from inappropriate uses.

To begin, we have included definitional changes to “reproductive or gender-affirming care location information” that clarify the scope of the definition and avoid the potential for overbroad interpretations that impede services rather than protect sensitive health data. These proposed amendments ensure that the data that is subject to the legislation has a direct connection to the health care at issue. As currently drafted, the bill could require wireless carriers to speculate or infer as to the nature of the location data, potentially resulting in anti-privacy outcomes such as making



inferences that they would not ordinarily do in the regular course of business. This proposed change ensures we can avoid this result. Similar definitions are included in the laws in Connecticut and Nevada, which grappled with similar overbreadth concerns when regulating consumer health data more broadly.

Additionally, we would like to express our concern about privacy legislation including private right of action, as it would unfairly expose wireless providers serving consumers in Massachusetts to costly litigation that will benefit the plaintiff's bar while offering little relief to consumers. While the current legislation does not include an express private right of action, we have made some changes to the enforcement provisions in order to reflect what appeared to be the will of the House that the attorney general would have exclusive enforcement authority. This approach will best encourage compliance, support innovation, and prevent and remediate harm.

In closing, we emphasize the challenges posed by state laws that further fragment privacy legislation across the country, especially those that look to regulate specific industries or a specific type of data. While we would prefer legislation does not target a specific type of consumer data, these proposed amendments will provide clarity in scope and requirements. These changes will help both consumers and businesses better understand the parameters of the legislation while also protecting consumers from targeted bad actors and avoid casting a wide net that risks pulling in non-health data and interrupting routine operations that both businesses and consumers rely on. Thank you for your consideration, and we look forward to working with you further on any privacy legislation to protect consumers and avoid unintended consequences.

Sincerely,

Jake Lestock  
Director  
State Legislative Affairs