



September 23, 2025

The Honorable Karen Spilka
Massachusetts State House
24 Beacon Street, Room 332
Boston, MA 02133

RE: Proposed Amendments to S. 2608 - An Act establishing the Massachusetts Data Privacy Act

Dear President Spilka,

On behalf of the Massachusetts Bankers Association's (MBA) more than 120 commercial, savings and cooperative banks and federal savings institution members with 72,000 employees located throughout the Commonwealth and New England, we are writing to express our views on several amendments to *S. 2608 - An Act establishing the Massachusetts data privacy act*.

Our views on these amendments are detailed below:

Support Amendment #10: Clarifying the Definition of Consumer

Amendment #10 seeks to clarify the proposed definition of consumer by adding the words: - "in a commercial or employment context" to said definition. A small, but important, addition, these words seek to better clarify that the definition includes personal information that is collected in business to business (B2B) relationships. This added language would bring Massachusetts fully in line with similar definitions of "consumer" that have been recently enacted in Connecticut, New Hampshire, and other states.

MBA respectfully requests that you **support Amendment #10** during debate on S. 2608 this week.

Oppose Amendments #15, 53, 54, 55 & 56: Private Right of Action Amendments

Amendments #15, 53, 54, 55 & 56 all seek to add a private right of action (PRA), which could have a chilling economic impact on businesses throughout the Commonwealth. Specifically, by introducing a PRA, businesses could be targeted by a surge of lawsuits from the plaintiff's bar causing a need to divert resources from operations, innovation and customer services to legal defense. This would be particularly devastating to smaller businesses who could, potentially, be inundated with legal challenges (and fees) over alleged minor infractions of the new law. In response to constant defense of these claims, businesses may forgo future investments in the

state thus making Massachusetts potentially less attractive for not only their growth, but also for new businesses seeking to enter the market.

Further, Massachusetts already has robust regulatory framework in place that effectively addresses consumer protection concerns as evidenced by the inclusion of the Attorney General's enforcement provisions in the bill's current language. We are concerned that adding a PRA may create unnecessary overlap with these existing laws and regulations, complicating compliance for all and leading to inconsistent interpretations. In our view, these potential negative impacts on businesses underscore the necessity of maintaining existing regulatory frameworks without muddying the water for all with additional litigation avenues.

It is for these reasons, MBA respectfully asks that you **oppose Amendments #15, 53, 54, 55 & 56** during debate this week.

Oppose Amendment #52: Closing Loophole to Prevent All Sales of Sensitive Data

MBA believes it is crucial to recognize the unique position that financial institutions are in while handling sensitive consumer data. Being built on a foundation of trust with consumers expecting their sensitive financial information to be safeguarded, financial institutions are already subject to stringent regulations, including the Gramm-Leach-Bliley Act (GLBA) and the Fair Credit Reporting Act (FCRA), which already impose strict rules on data sharing and privacy protections. An additional layer of restrictions regarding the sale of sensitive data could create confusion and compliance burdens without truly enhancing consumer protection.

It is for these reasons that MBA respectfully requests that you **oppose Amendment #52** during this week's debate.

A Note on Amendment #57: Clarifying Financial Institution Exemption

While the Association certainly appreciates Senator Cronin's amendment to clarify the financial institutions' exemption, we are not sure simply adding it to the bill would refine much in terms of the legal analysis of the exemption currently provided in the bill's language. It may, unintendedly, add confusion if only added to the language as currently proposed.

MBA is glad to discuss this further if deemed helpful.

Conclusion

Thank you for considering our views on these proposed amendments to S. 2608 - An Act establishing the Massachusetts data privacy act.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Papalardo', with a long horizontal line extending to the right.

Brad S. Papalardo, Esq.
Executive Vice President,
Chief of Government Affairs
& General Counsel