



June 18, 2024

Senate President Karen Spilka
Senator Michael Rodrigues, Chair
Senate Committee on Ways and Means
The State House
Boston, MA 02133

House Speaker Ron Mariano
Representative Aaron Michlewitz, Chair
House Committee on Ways and Means
The State House
Boston, MA 02133

Dear Senate President Spilka, House Speaker Mariano, Senator Rodrigues,
Representative Michlewitz and members of the House and Senate:

As leaders of Massachusetts-based business and trade associations, collectively representing more than 10,000 employers, we write to express our concerns about S.2770/H.4632, *An Act establishing the Massachusetts data privacy act*, which have been sent to the Senate and House Committees on Ways and Means, respectively.

We recognize the importance of data privacy and are supportive of a framework that is a consistent, thoughtful, and comprehensive approach for safeguarding consumers' privacy, expanding consumers' rights, and protecting personal information. We also believe that this approach must be balanced with employer feasibility, compliance costs, and avoiding unintended consequences that negatively impact the state's economic competitiveness and our world-class innovation ecosystem. However, we are concerned that the current version of the *Massachusetts Data Privacy Act* would put companies operating in Massachusetts at a significant competitive disadvantage.

The bill, as redrafted, greatly diverges from a mainly uniform approach that has been adopted by seventeen states, including other New England states. This is an approach that many businesses in Massachusetts are already utilizing for customers, regardless

of where they live, because it typically is more cost-effective and feasible to apply the same standard to all consumers. Adopting a unique Massachusetts-only law would be extremely burdensome on employers and cause significant unintended consequences for businesses who operate around the country and world, making us an outlier in an increasingly competitive economic environment. In addition, as redrafted, these bills include duplicative and extremely difficult to meet standards which could be confusing to employers and exacerbate the competitive disadvantage.

The compliance problems are only exacerbated by the proposed private right of action enforcement mechanism in the legislation. This new liability would expose Massachusetts businesses attempting to comply with the bill to an avalanche of litigation. It would also further cement the Commonwealth's status as an outlier because Massachusetts would have the broadest private right of action of any state with existing privacy laws.

Next session, we stand ready to work with policymakers in a collaborative effort to safeguard consumer privacy while at the same time supporting the state's overall competitiveness. Thank you for your consideration and thoughtful approach to this important policy matter.

Sincerely,

JD Chesloff, President & CEO, Massachusetts Business Roundtable

Brooke Thomson, President & CEO, Associated Industries of Massachusetts

Karen Andreas, President & CEO, North Shore Chamber of Commerce

Kendalle Burlin-O'Connell, President & CEO, MassBIO

Jonathan Butler, President & CEO, 1Berkshire

Chris Carlozzi, State Director, NFIB

Zach Donah, President & CEO, Massachusetts Society of CPAs

Jenny Erickson, President & Chief Executive Officer, Life Insurance Association of Massachusetts (LIAM)

Sara Fraim, CEO, Massachusetts Technology Leadership Council

Andrew Guggenheim, Managing Director & Associate General Counsel, SIFMA-Securities Industry and Financial Markets Association

Jon Hurst, President, Retailers Association of Massachusetts

Jim Klocke, President & CEO, Massachusetts Nonprofit Network

Kathleen Murphy, President & CEO, Mass Bankers Association

Tim Murray, President & CEO, Worcester Regional Chamber of Commerce

Paul Niedzwiecki, Chief Executive Officer, Cape Cod Chamber of Commerce

Daphne Phalon, President, Mass Staffing Association

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

Tamara Small, CEO, NAIOP Massachusetts, The Commercial Real Estate
Development Association

Mike O'Sullivan, CEO, One South Coast Chamber

Christopher S. Stark, Executive Director, Massachusetts Insurance Federation