September 24, 2025

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

Senator Michael Rodrigues, Chair
Senate Committee on Ways and Means
State House, Room 212
Boston, MA 02133

Dear Senate President Spilka, Chair Rodrigues, and Members of the Senate,

On behalf of the Greater Boston Chamber of Commerce and our 1,200 members, I write to offer comments on S.2608, *An Act establishing the Massachusetts Data Privacy Act.* The Chamber and its members understand the importance of protecting consumers' personal data and privacy. While a federal, 50-state approach is preferable, the Chamber believes that easily understandable data protections, including protecting the data of minors, the ability of consumers to opt-out of certain data collection activities or correct data, and clear privacy notices for consumers consistent with other states is possible in a state framework.

First, we would like to thank you and your staff for improving many aspects of the Senate's approach to data privacy regulation, including crafting clearer definitions, eliminating extraneous and confusing language, and excluding a private right of action. We appreciate the positive progress made and your consideration of the business community's feedback.

However, critical issues impacting the Commonwealth's competitiveness remain, including policies that will position Massachusetts as an outlier in its approach to privacy that may not improve the protection of consumers. Furthermore, several proposed amendments risk significant negative impacts on the economy and business operations. We urge the Senate to avoid policies that would significantly hamper Massachusetts-based businesses, such as reimposing any private right of action, or dramatically expanding the scope beyond addressing consumer protections around data, such as regulating employers' use of artificial intelligence in the context of this bill.

Policies considered in this legislation will impact almost every major employer in the Commonwealth, far beyond large technology companies, and could alter the consumer experience in countless ways if not approached with caution and balance. With that in mind, we address our concerns below.

Private Right of Action

We reiterate our thanks that the Senate eliminated a proposed private right of action in S.2608, a measure that would make the Commonwealth the major target for test-case litigation nationwide. No other state has adopted an expansive private right of action in a comprehensive data privacy bill, for good reason. Massachusetts-based employers of all sizes would have to navigate endless lawsuits as this new area of regulation is understood by the court system – a fact proponents of this bill readily acknowledge and will likely participate in, as demonstrated by continued efforts to utilize the state's Wiretap Act to extract settlement agreements. We urge the Senate to reject all amendments reimposing a private right of action, particularly amendments 15, 53, 54, 55, and 56.

Definition of Sensitive Data

S.2608 already contains one of the most expansive definitions of "sensitive data" in the nation – a definition that currently does not match any other state and therefore positions Massachusetts as an outlier. While adopting amendment 48 would be the more consistent approach nationwide, the Chamber also supports amendment 26 which realigns the definition to be more consistent with others

states without undermining the categories of data the Senate outlined in its redraft. While containing small changes to the text, the amendment will make it easier to comply with this new approach to sensitive data regulation and represents a positive outcome for our members.

The Chamber opposes amendment 30 and other amendments that would further broaden the definition of sensitive data beyond the Senate's already nation-leading effort. Adding to the definition categories of data beyond how most states approach the issue place Massachusetts at a significant disadvantage in our knowledge-based economy.

Data Minimization

Amendments 46 and 47 make important changes to the legislation's data minimization standard, conforming to the emerging framework for data privacy regulation existing in neighboring and competitor states. The existing language in S.2608 will mark Massachusetts as outlier and, like Maryland, create extreme uncertainty in how employers can and cannot utilize data in their everyday business decisions. However, unlike Maryland, Massachusetts is uniquely vulnerable to this type of uncertainty given its leadership position in technology development, start-up innovation and investment, life sciences, financial services and health care. It will constrain growth in emerging industries as well, such as artificial intelligence and climate tech, areas supported by last session's Mass Leads Act and where the Commonwealth is poised for growth and leadership.

It is important to reiterate that this bill does not just impact global technology companies, but many Massachusetts based employers large and small. Furthermore, an untested standard will impact *consumers.* Services, loyalty programs, and customized experiences available elsewhere may be eliminated here, and Massachusetts companies will be at a disadvantage trying to locate, identify, and retain customers. Consumer benefits available elsewhere may not be available in the Commonwealth. The impact will be widespread and will hurt the state's competitiveness in an area that is currently a strength. We urge the Senate to adopt amendments 46 and 47.

Artificial Intelligence

As we engage in a debate around consumer data privacy, we ask the Senate to avoid inserting unrelated issue areas into what is a consumer-focused bill. Amendments related to artificial intelligence should be rejected as a variety of proposals make their way through the legislative process. In particular, restricting the use of artificial intelligence by employers is another complicated and highly technical issue that, if handled carelessly, will put Massachusetts at a disadvantage in competing for and retaining talent in the Commonwealth. Amendment 9, based on another bill in the legislative process, and other amendments related to A.I. raise a host of public policy concerns from employers looking to remain competitive with businesses from other states and countries, and deserve more individual attention should the Senate decide to engage on that issue.

Employee Data / Mergers and Acquisitions

S.2608, like similar laws in other states, exempts data collection and retention of employees from restrictions for both internal operations and related to business mergers and acquisitions. These are common sense provisions, given employers are required to collect a variety of forms of both personal data and sensitive data, as now defined by the bill, for basic human resources functions, the administration of benefits, required state and federal legal and reporting requirements, and tax collections, among other legal and operational functions. Employment law is a vast and complex area, governed by a host of state and federal statutes and case law.

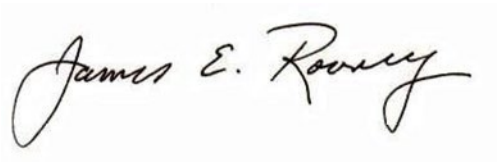
These state and federal laws address the employee/employer relationship in a variety of ways, whether governing the interaction with collective bargaining units, prohibiting discrimination in an employment context, addressing salary histories and pay transparency, protecting whistleblowers, and prohibiting retaliation for protected activities. The Chamber regularly engages the Legislature on these issues – but conflating them with consumer data privacy protections will have unintended consequences. Several

proposed amendments to S.2608 related to employee data will make it more difficult to conduct regular, daily business functions in the Commonwealth. S.2608 is, and should remain, focused on consumers, and not disrupt how people start, operate, and grow a business.

Additionally, employee and customer data is necessarily exchanged during the business merger/acquisition process and should be exempt from data privacy regulation. Processes requiring additional employee or consumer consent, restrictions on employee data exchanges, or complications in outreach to customers will only hurt the consumer experience and disincentivize business transactions in the Commonwealth, without providing any meaningful improvements to consumer protections. The Senate should remain focused on consumer data privacy protection and not expand the scope of this bill.

Thank you for your attention and please reach out with any questions.

Sincerely,



James E. Rooney
President & CEO

CC – Members of the Massachusetts Senate