



Apr 6, 2023

House Committee on Commerce and Economic Development
Attn: David Hall, Legislative Counsel
115 State Street
Montpelier, VT 05633

Re: H. 121 - An act relating to enhancing consumer privacy

Dear Chair Marcotte and Members of the Commerce and Economic Development Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully raise some concerns with H. 121, An act relating to enhancing consumer privacy.

CCIA is an international, not-for-profit trade association¹ representing a broad cross-section of communications and technology firms. CCIA supports the enactment of comprehensive federal privacy legislation to promote a trustworthy information ecosystem characterized by clear and consistent consumer privacy rights and responsibilities for organizations that collect and process data. A uniform federal approach to the protection of consumer privacy throughout the economy is necessary to ensure that businesses have regulatory certainty in meeting their compliance obligations and that consumers are able to exercise their rights. CCIA appreciates, however, that in the absence of baseline federal privacy protections, state lawmakers are attempting to fill in the gaps. To inform these efforts, CCIA produced a set of principles to promote fair and accountable data practices.²

CCIA strongly supports the protection of consumer data and understands that Vermont residents are rightfully concerned about the proper safeguarding of their data. We also appreciate the proposed revisions put forward by the Attorney General's office that aim to bring the legislation in line with other comprehensive privacy laws in other jurisdictions, such as Connecticut, as interoperability is crucial while a state-level piecemeal approach is in place. However, H. 121 still includes several provisions that raise concerns. We appreciate the committee's consideration of our comments regarding several areas for potential improvement.

1. Sufficient time is needed to allow covered entities to understand and comply with newly established requirements.

H.121 fails to provide covered entities with a sufficient onramp to achieve compliance. A successful privacy framework should ensure that businesses have an appropriate and reasonable opportunity to clarify the measures that need to be taken to fully comply with new requirements. Recently enacted privacy laws in California, Colorado and Virginia included two-year delays in enforcement of those laws. CCIA recommends that any privacy legislation advanced in Vermont include a comparable lead time to allow covered entities to

¹ For over 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Computer & Communications Industry Association, *Considerations for State Consumer Privacy Legislation: Principles to Promote Fair and Accountable Data Practices* (January, 2022), <https://www.ccianet.org/wp-content/uploads/2022/02/CCIA-State-Privacy-Principles.pdf>



come into compliance and would therefore recommend amending the current effective date timeline of July 1, 2023 to at least January 1, 2025³.

2. Investing enforcement authority solely with the state attorney general and providing a cure period would be beneficial to consumers and businesses alike.

§ 2449 of H. 121 permits consumers to bring legal action against businesses that have been accused of violating new regulations. By creating a new private right of action, the measure would open the doors of Vermont’s courthouses to plaintiffs advancing frivolous claims with little evidence of actual injury. Lawsuits also prove extremely costly and time-intensive – it is foreseeable that these costs would be passed on to individual consumers in Vermont, disproportionately impacting smaller businesses and startups across the state. Further, every state that has established a comprehensive consumer data privacy law – California, Colorado, Connecticut, Iowa, Utah and Virginia – has opted to invest enforcement authority with their respective state attorney general. This allows for the leveraging of technical expertise concerning enforcement authority, placing public interest at the forefront.

CCIA recommends that the legislation include a cure period of at least 30 days for all new regulations created under the legislation. This would allow for actors operating in good faith to correct an unknowing or technical violation, reserving formal lawsuits and violation penalties for the bad actors that the bill intends to address. This would also focus the government’s limited resources on enforcing the law’s provisions for those that persist in violations despite being made aware of such alleged violations. Such notice allows consumers to receive injunctive relief, but without the time and expense of bringing a formal suit. Businesses would also be better equipped with the time and resources to address potential privacy changes rather than shifting focus to defending against litigation.

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We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Alex Spyropoulos
Regional Policy Manager, Northeast
Computer & Communications Industry Association

³ Matching the effective date that Iowa has set for the comprehensive data privacy legislation their legislature passed in March 2023. <https://www.legis.iowa.gov/legislation/BillBook?ba=SF%20262&ga=90>