



January 27, 2023

Chairman Capriglione,

Thank you for providing access and engaging the data privacy stakeholder group. We welcome the opportunity to submit feedback. As we compile feedback and continue the conversation of what data privacy legislation could look like in Texas, the members of our respective organizations continue to align with the guiding principles and suggestions below. First and foremost, we support a national data privacy standard that enables private sector innovation and protects the privacy and security of consumer data, recognizing that technology utilization, development and innovation move much faster than government and are not bound by local or state boundaries.

In the interest of constructive stakeholder engagement, and based on our initial review of the proposed language, we provide the following feedback to ensure consistency as we work towards a national standard:

- 1) **Definition of Sale:** This provision is more sweeping than California, expanding the definition of sale to anything that has a “commercial purpose”, which would include all online advertising. It would also remarkably alter the basic advertising model that keeps the internet accessible to Texans, especially those who are not able to afford paid subscriptions to get content online.
- 2) **Private Right of Action:** we suggest clarifying the private right of action language to ensure back door PRAs are not allowed. We strongly suggest including “under this law or any other law”.
- 3) **Regulatory Consistency:** we suggest including language to ensure regulatory consistency of state law and other governmental entities including local governments.
- 4) **Effective date:** Many companies will be impacted that are only in Texas and not implicated by other state laws, therefore the implementation time must be reasonable for significant changes in operations for large and small businesses alike. We suggest an effective date of at least September 1, 2024.
- 5) **Technical suggested changes:**
 - a. **Data Portability** – we suggest the language should mirror VA in only applying to data that the customer has provided.

- b. **Identified or Identifiable individual** – we suggest clarifying that this must be a consumer, so that the limitations to Texas residents apply throughout the bill.
- c. **Precise Geolocation data** – we suggest clarity for all content of communications that may include location information, not just that which pertains to utility services.
- d. **Decisions that produce legal or similarly significant effects** – we recommend not including this in the definition.
- e. **Subcontractor erroneous reference** – there is a hanging reference that is not substantive in the processor requirements related to subcontractors. The important requirement is that all subcontractors must adhere to the requirements of the law.
- f. **Right to Cure** – we suggest including language that specifies that further violations of the issue the controller fixed would be the trigger for moving to the enforcement stage rather than *any* violation of any kind after a Right to Cure has been exercised. We believe this change would protect businesses from unnecessary litigation.

Thank you for the opportunity to provide this feedback on behalf of the Texas Association of Business and the organizations below.

Sincerely,

Dallas Regional Chamber
Greater Houston Partnership
TechNet
Texas Association of Business
Texas e-Health Alliance
Texas Retailers Association