



**Testimony of
JAKE LESTOCK
CTIA**

**In Opposition to Maryland Senate Bill 698
Before the Maryland Senate Finance Committee**

March 8, 2023

Chair Griffith, Vice-Chair Klausmeier, and members of the committee, on behalf of CTIA®, the trade association for the wireless communications industry, I submit this testimony in opposition to Senate Bill 698. Our members support strong consumer privacy protections, including empowering consumers with the rights necessary to control their data. While consumer data is best addressed at the federal level, we look forward to working with the sponsor to ensure this legislation aligns with existing state frameworks on consumer protection. This bill regulates various components of consumer privacy, including biometrics, differently than other comprehensive state laws. In addition, the private right of action would place businesses under a strong threat of litigation. As currently drafted, CTIA opposes the bill.

Consumer privacy is an important issue and the stakes involved in consumer privacy legislation are high. State-by-state regulation of consumer privacy will create an unworkable patchwork that will also lead to consumer confusion. That is why CTIA strongly supports ongoing efforts within the federal government to develop a uniform national approach to



consumer privacy. Deviating from clearly defined definitions, obligations and privacy protections could have serious consequences for consumers, innovation, and competition in Maryland. Heterogeneous state regulations would only complicate federal efforts and impose serious compliance challenges on businesses, ultimately confusing consumers. Federal legislation is the only way to ensure clear, consistent privacy protection for consumers and certainty for businesses.

While federal consumer privacy law is ultimately the only way to ensure consumers' privacy is adequately protected, CTIA understands without federal action, states will continue to fill the void. We appreciate that SB 698 is largely aligned with the Connecticut consumer privacy law, which was enacted last year. This law set forth strong consumer privacy rights and protections, and imposes robust but clear obligations on businesses and addresses how businesses can use biometric data. By closely mirroring Connecticut, Maryland can ensure consistent privacy protections and interoperability with other state frameworks. This will promote consistent consumer protection and will help Maryland businesses with implementation.

In order to achieve this, the added biometrics provisions should be amended to better align with other state comprehensive privacy laws. As currently drafted, this component is modeled after a biometric privacy law in Illinois, enacted in 2008, which has led to a myriad of lawsuits and little consumer protection. Maryland should not look to replicate this problematic law. The private right of action contained within the biometrics provisions would



subject companies to the risk of expensive litigation that primarily benefits the plaintiffs' bar and offers little relief to consumers. Through September of 2021, according to a search of court filings, plaintiffs' lawyers have filed over 900 cases alleging violations under the BIPA law in Illinois.¹ Notably, to date no other state that has enacted a comprehensive privacy law that has included a private right of action over core privacy standards. Additionally, no other state has enacted a law similar to the problematic Illinois BIPA standard.

In closing, we reiterate our concern about the enactment of state laws that further fragment privacy legislation across the country. While the bill remains inconsistent with other state comprehensive privacy laws, CTIA respectfully opposes this legislation. We recommend further aligning with the Connecticut model and look forward to working with the sponsor to ensure parity among existing laws. Thank you for your consideration.

¹ <https://institutelegalreform.com/research/ilr-briefly-a-bad-match-illinois-and-the-biometric-information-privacy-act/>