



Consumer Data Industry Association
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Senator Pamela Beidle
Chair
Senate Finance Committee
Maryland Senate
3 East Miller Senate Office Building
Annapolis, Maryland 21401

Chair Beidle, Vice Chair Hayes, and Members of the Committee:

On behalf of the Consumer Data Industry Association (CDIA), I am writing to highlight technical concerns with provisions from SB 504 that would amend Maryland's existing comprehensive data privacy statute. The proposed changes to several key provisions would make Maryland's statute incongruent with those of other states and open the door to significant uncertainty regarding the use of public records by our membership for purposes outside the intended scope of this bill. While we appreciate the consumer reporting industry is not the target of SB 504, we respectfully request the committee revise the bill to more clearly effectuate its intent, avoiding unnecessary conflict with federal laws or constitutional conflicts.

CDIA represents the consumer reporting industry, including nationwide credit bureaus, regional and specialized credit bureaus, background check companies, and more. Since our founding in 1906, we have promoted the responsible use of consumer data to empower financial opportunities, reduce fraud, and manage risk. Through data analytics, our members facilitate fair and secure transactions, foster competition, and expand consumers' access to tailored financial products. As part of our mission, CDIA promotes responsible data practices to benefit consumers and to help businesses, governments and volunteer organizations avoid fraud and manage risk.

Three sections of SB 504 are of most concern to our members. These sections include the proposed change to the definition of publicly available information at 14-4701 (a)(cc)(1)(i), the proposed change to the exemption for the federal Driver's Privacy Protection Act 14-4703 (8), and the proposed changes related to controllers' ability to sell personal data in 14-407 (a)(5)(II). CDIA understands these amendments to the data privacy statute are intended to effectuate restriction on certain uses of information contained in public records established by other parts of SB 504, but we are concerned that the use of broad, undefined terms create uncertainty for our members who rely on public records and may introduce conflicts with federal laws, like the federal Fair Credit Reporting Act and the Driver's Privacy Protection Act.

The change to the definition of "publicly available information" introduces substantial uncertainty and subjectivity into the scope of the data privacy statute. As the definition of "publicly available information" is critical in determining when personal data is subject to the protections of the bill, conditioning applicability based on subjective interpretations of downstream uses may make it impossible for businesses and consumers to understand when and where the law applies. Similarly, given it relies on broad terms, CDIA is concerned it would allow records custodians to place restrictions on the use of records unrelated to the intent of SB 504, disrupting data flows and creating conflicts with other state and federal laws.

We have similar concerns about the proposed changes to the exemption for the Driver's Privacy Protection Act. Current language reflects the construction of the DPPA, which requires certain motor vehicle and driver information to be available by state entities for covered purposes including vehicle safety roles. While CDIA members who perform this important public safety work adhere to the requirements of the DPPA, they are not performing that work to comply with the DPPA. This creates confusion and ambiguity, making it difficult to understand how and when that information would be subject to the data privacy statute.

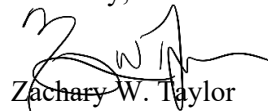
Finally, CDIA and its members also have concerns about the new restriction imposed on controllers related to the sale of data. Not only does this section place controllers in the impossible position of guessing at how

personal data may be used at any point in the future, that test is made even more challenging based on the existing “should have known” standard in current law.

Setting aside the underlying intent of the bill, CDIA is concerned that these changes would move Maryland’s data privacy statute out of line with the 20 other state data privacy laws. While CDIA believes that a single, federal data privacy statute represents a better approach, given that the consumer reporting industry operates in all jurisdictions and across state lines, it is critical that state level data privacy laws are as closely aligned as possible.

In the interest of avoiding patchwork of competing state level approaches, we respectfully encourage the committee to consider revising SB 504 in a manner that would achieve its underlying intent without opening up Maryland’s comprehensive data privacy law. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zachary W. Taylor', with a stylized flourish extending to the right.

Zachary W. Taylor
Director, Government Relations
Consumer Data Industry Association