



**BROADBAND COMMUNICATIONS
ASSOCIATION OF PENNSYLVANIA**

BCAP Testimony on PA House Bill 1201

The Broadband Communications Association of Pennsylvania (BCAP) appreciates the opportunity to comment on House Bill 1201, legislation to advance consumer data privacy. BCAP is an association of Pennsylvania cable operators, equipment suppliers, and programmers that provide broadband communications services in every Pennsylvania county. BCAP appreciates the commitment of Representative Neilson on this issue and his willingness to dialogue with industry stakeholders. In addition, we commend Commerce Committee Chairman Galloway and Republican Chairman Emrick for highlighting the issue of consumer data privacy before the Committee.

As we celebrate the cable industry's 75th year anniversary this year and the evolution of broadband and cable, we couldn't have made it this far without the steadfast loyalty of our customers. BCAP members take privacy and security seriously. We safeguard the personal information our customers entrust to us.

BCAP members operate under a regimen of federal and state privacy laws and regulations, including the privacy framework of the Federal Trade Commission (FTC), the Communications Act, the Cable Act, the Children's Online Privacy Protection Act (COPPA), the Video Privacy Protection Act, the Electronic Communications Privacy Act, and Pennsylvania state law. None of our members share customer sensitive personal information (including financial, children's, and health information) without express consent. The privacy policies of BCAP members are clear, transparent, and publicly available.

Online privacy is fundamentally a federal issue best addressed at that level. Having individual state laws more restrictive than federal law places a burden on businesses to adapt to different regulations in each state. Business needs uniformity. An all-encompassing federal bill makes sense and would avoid penalizing legitimate businesses needing to maintain positive relationships with customers.

That said, the approach of House Bill 1201 provides consumers with meaningful protections while allowing business to use data to engage in reasonable business activities, innovate and adapt to rapid changes in technology.

Positives include:

- No private right of action – attorney general has sole enforcement authority.
- Excludes employment-related and B2B data.
- Consistent timelines for access, deletion, and correction requests. Controllers have 45 days (with a one-time 45-day extension) to effectuate consumer requests. Controllers may deny requests or charge a fee for requests more than twice in a year.
- Consumers' rights are limited with respect to pseudonymous data. Consumers' rights to confirm, correct, delete, or obtain a copy of personal data do not apply to pseudonymous data.
- BCAP supports HB 1201's limiting Data protection assessments to four specified activities: targeted advertising, sales, profiling that presents certain risks, and processing sensitive data.
- Right to cure. HB 1201 requires the attorney general to give controllers and processors notice and a 60-day right to cure any alleged violations and will be prohibited from bringing an enforcement action if the controller or processor cures the violation within that time period. BCAP supports this provision but calls for it not to terminate on December 31, 2025.

BCAP is concerned with other provisions of HB 1201:

- HB 1201 should adopt the definition of personal information that many other states have adopted – namely, information that is linked or reasonably linkable to, directly or indirectly, an identified or identifiable natural person. Reference to households should be removed from the definition of “personal data” to improve workability and interoperability across states. The law should focus on protecting individuals, not groups of individuals.
- HB 1201 should exclude “de-identified data” from the definition and expand the definition of “publicly available information” consistent with other state privacy laws.
- HB 1201 should align with the other state privacy laws that define sales only as disclosures of personal information for monetary consideration.
- With the complexity of implementing this measure, BCAP supports making the law effective in sixty days (versus immediately).

As mentioned before, BCAP strongly prefers federal legislation that would apply uniformly to businesses across the United States. Each new state privacy law that differs from other laws, even in modest ways, requires businesses to make a host of

internal changes to business operations and, in some cases, to renegotiate contracts with each service provider and third party with which they share data. If Pennsylvania is inclined to pass privacy legislation, HB 1201 is a compatible approach that establishes strong protections for consumers while reducing excessive compliance costs and burdens for affected businesses. BCAP appreciates the opportunity to offer comments on HB 1201 before the House Commerce Committee. We look forward to working with you to improve the legislation.