



THE TECH INDUSTRY PLAYBOOK

To Pass Weak, Ineffectual State
'Privacy' Laws



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INTRODUCTION AND SUMMARY

As states like Massachusetts move towards important privacy legislation, a common complaint from tech industry lobbyists is their fear of a ‘patchwork’ of differing state standards to which their companies would have to adhere. Leaving aside that huge corporations deal with different laws in different states every day on issues like tax and environmental regulations, the truth is that the same companies who complain about the patchwork effect actually created it. This document will show that Big Tech industry associations have systematically pushed for weak privacy bills that do little for consumers and allow their continued exploitation, and created a situation where different states have different privacy laws. With Massachusetts on the cusp of passing a stronger privacy bill, lawmakers must not be derailed by disingenuous industry arguments about a situation they - the industry - created.

THE TWO COMPETING MODELS: INDUSTRY-DRAFTED VS. CITIZEN-CENTRIC

Industry-Drafted State Laws (17 states have these bills)

According to tech journalist Suzanne Smalley, “Tech companies want bills that do not include a private right of action, such as personal lawsuits; do not include strong data minimization language, which limits how much information companies can keep on hand; do not let consumers opt-in to data protections in most cases; and feature narrow definitions for what qualifies as a data sale, among other things.”¹

- **Virginia (2021):** The blueprint for industry-drafted laws. Virginia’s bill was drafted by an Amazon lobbyist according to the bill’s chief sponsor, state senator Dave Marsden.² Amazon considered the bill’s passage a “huge victory” internally, and had identified Marsden years earlier under its “watering-the-flowers” program to cultivate friendly lawmakers.³
- **Connecticut (2022):** Contains some nods towards privacy protections on gender and privacy but avoids fails to place meaningful limits on the collection and use of data (data minimization)⁵

Citizen-Centric State Laws

- **California (2018/2020):** Received the highest grade (B+) in an assessment by privacy advocates for establishing a dedicated enforcement agency with rulemaking authority.⁶ Unlike Virginia's industry-drafted law, California's rules became law in response to a proposed ballot question, not through industry lobbying.⁷
- **Maryland (2024):** Establishes a public-interest minded approach to data minimization that limits collection to what is "reasonably necessary and proportionate to provide or maintain a product or service requested by the consumer."⁸ Maryland built stronger rules on top of existing laws from other states to better protect consumers.

KEY DIFFERENCES BETWEEN STRONG AND WEAK PRIVACY LAWS

The two aforementioned approaches are fundamentally different because the industry bills maintain the status quo and let the companies continue to write the rules, whereas the other bills create actionable privacy protections for consumers that are defined by democratically-elected state officials.

Strong Enforcement Mechanisms

- **Industry-Friendly Laws:** Enforcement exclusively by under-resourced state attorneys general.⁹ California allows for a limited private right of action for data breaches only (the ability for individuals to sue companies for violations).¹⁰ No other state has successfully included a private right of action in their privacy law. The misleadingly named "State Privacy and Security Coalition" (SPSC)—an industry front group, has succeeded in removing the private right of action "in just about every state" where it has lobbied.¹¹
- **Citizen-Centric State Laws:** A good privacy law includes a private right of action, following in the tradition of other consumer protection statutes in allowing consumers to enforce their rights in court. This supplements state agency enforcement, which should also be adequately resourced to ensure compliance with and enforcement of the law.

Data Minimization

- **Industry-Drafted Laws:** Allow collection and use of personal data as long as it's disclosed in privacy policies. This merely restates existing consumer protection law, which prohibits companies from lying to their users.
- **Citizen-Centric State Laws:** A good privacy law better aligns companies' data practices with what consumers expect by limiting the collection and use of personal data to what is reasonably necessary for the product or service requested by a consumer.

Ban on the sale of sensitive data

- **Industry-Drafted Laws:** Many state privacy laws require opt-in consent for the collection and use of sensitive data, but this protection has largely proved ineffective at limiting the abuse and sale of sensitive data.
- **Citizen-Centric State Laws:** The Maryland Online Data Privacy Act, enacted last year, bans the sale of sensitive data. Businesses should not be able to profit off our sensitive data, such as precise location and health information.

HOW THE INDUSTRY PLAYS POLITICIANS

From state to state, the industry manages to get its way by convincing lawmakers that their model protects privacy while in reality it bakes the status quo into law. Such approaches have been documented by Politico (“The man quietly rewriting American privacy law”) and Reuters (“Amazon wages secret war on Americans’ privacy, documents show”).

- **Astroturf Campaigns:** The SPSC coordinated efforts with local Vermont business groups – including the Chamber of Commerce, Retail & Grocers Association, and Ski Areas Association – to oppose strong privacy bills.¹³ Lawmakers speak of companies unconnected to the privacy discussion suddenly weighing in against a bill. It would later turn out to be the industry’s strategy of rallying small businesses.
- **Flood the Zone Strategy:** An investigation found 445 lobbyists and lobbying firms representing Amazon, Apple, Google, Meta, Microsoft, TechNet, and the SPSC in 31 states considering privacy legislation.¹⁴

- **The Patchwork Argument:** Consistently arguing that differing state laws would create compliance burdens, lobbyists push for weaker but consistent models.

- **Andrew Kingman and the SPSC:** According to media, rather than fighting legislation outright, Kingman and industry lobbyists offer to “help” craft laws more favorable to businesses. But these industry-approved laws are worse than nothing, because they give internet users the illusion of privacy while conferring essentially no rights. Furthermore, the industry may point to these bad state laws when lobbying Congress on a national privacy law, raising the risk that weak state legislation will form the basis of weak federal law that preempts states from adopting more meaningful protections for their residents.

CROSS-STATE COORDINATION

- **Model Shopping:** Montana Senator Daniel Zolnikov discovered tech lobbyists were pushing the weaker Utah model in his state while simultaneously accepting the stronger Connecticut model in Maryland, revealing their “state-by-state effort to get the lowest common denominator concept through.”¹⁶

- **Major Brands Hiding Behind Industry Associations:** One Maine legislator noted that “very rarely did we hear directly from a Facebook or a Google or an Amazon. There were organizations that lobbied on their behalf... like TechNet or State Privacy and Security Coalition.”¹⁷

SUCCESS STORIES

- **Maryland (2024):** Passed one of the nation’s strongest laws despite industry opposition.
- **Montana:** Enacted a relatively strong bill because State Senator Daniel Zolnikov resisted industry pressure to adopt the weaker Utah model, after uncovering the industry’s deceptive tactics.¹⁸
- **Oregon:** In June 2025, Oregon amended its privacy legislation to include a ban on the sale of precise geolocation data and data about children under 16.
- **Cross-State Knowledge Sharing:** State lawmakers have begun organizing to share information about industry tactics, recently holding a hearing where multiple legislators could compare notes on lobbying pressure.¹⁹

CONCLUSIONS

Lawmakers should not be fooled by industry’s disingenuous “patchwork” arguments or their model “privacy law” that doesn’t actually protect privacy. If lawmakers are duped by the tech industry as in other states, we will end up with legislation that does nothing to protect the people of Massachusetts, and allows companies to continue to exploit and endanger our residents.

CITATIONS

¹ In patchwork of state privacy legislation, tech lobby sees a single battlefield

² Tech Industry Groups Are Watering Down Attempts at Privacy Regulation, One State at a Time – The Markup

³ The Amazon lobbyists who kill U.S. consumer privacy protections

⁴ In patchwork of state privacy legislation, tech lobby sees a single battlefield

⁵ In patchwork of state privacy legislation, tech lobby sees a single battlefield

⁶ State data privacy laws called toothless by public interest groups | Legal Dive

⁷ The state of state privacy laws in 2025

⁸ Maryland Creates a New Paradigm for Data Privacy | Davis Wright Tremaine

⁹ US Data Privacy Laws By State - Rights And Requirements

¹⁰ The State of U.S. State Privacy Laws: A Comparison | Keller and Heckman

¹¹ In patchwork of state privacy legislation, tech lobby sees a single battlefield

¹² EPIC, Data Minimization is the Key to a Meaningful Privacy Law

¹³ The state of state privacy laws in 2025

¹⁴ Tech industry groups are watering down attempts at privacy regulation, one state at a time

¹⁵ Lobbyists: The Key to Passing Privacy Legislation in the United States?

¹⁶ In patchwork of state privacy legislation, tech lobby sees a single battlefield

¹⁷ In the Trenches with State Policymakers Working to Pass Data Privacy Laws | TechPolicy.Press

¹⁸ In patchwork of state privacy legislation, tech lobby sees a single battlefield

¹⁹ In the Trenches with State Policymakers Working to Pass Data Privacy Laws | TechPolicy.Press