



Representative Tackey Chan, Chair
Committee on Consumer Protection
& Professional Licensure
State House, Room 42
Boston, MA 02133

Senator John J. Cronin, Chair
Committee on Consumer Protection
& Professional Licensure
State House, Room 218
Boston, MA 02133

July 14, 2023

Dear Chairs Chan and Cronin:

I am writing to express my concerns over H. 357 and S.148 which were recently heard before your Committee on June 26, 2023.

These bills, as presently drafted, would completely prohibit all sale of consumer location data without exception. Proponents argue that this legislation protects consumers and society, but nothing could be further from the truth. Prohibiting the sale of location data will not stop aggregation of location data, it will simply consolidate this data into the hands of a few global technology companies that have the exclusive ability to collect and monetize it. This would create a significant disadvantage for businesses in all other industries and the general public, who today benefit from the insights that only mobile location data can provide.

Location data in and of itself is not dangerous to consumers. It is a tool, and despite widespread fear of its distribution, dissemination of location data currently allows for a variety of beneficial use cases for consumers and our communities at large. Notable examples include:

- Helping business leaders and city planners determine which types of businesses and infrastructure to bring to a downtown area based on the interests of its local residents.
- Evaluating and improving natural disaster and emergency response plans.
- Helping locate missing children and victims of sex trafficking.
- Identifying transportation patterns and supply chain bottlenecks, including in the wake of the recent I-95 highway collapse in Philadelphia.
- Providing support to the Massachusetts Department of Transportation and other government agencies to improve commuter planning and infrastructure initiatives.
- Supporting private industry to better understand commuter patterns and consumer behavior

Importantly, our industry is keenly aware of the potential risks that come with the misuse of location data, especially in a post-Dobbs world. We too want to ensure that individuals seeking reproductive and/or gender-affirming healthcare are protected. Consequently, over the past year, our industry has responded to valid concerns by severely curtailing access to location data from sensitive locations. As potential problems arose, we worked collaboratively to solve them and keep

consumers safe, and we will continue to do so in the future. Becoming a legal outlier at the state regulatory level, however, will not make Massachusetts consumers safer. In fact, it will put them further at risk.

If the Commonwealth of Massachusetts remains concerned about location data, we recommend a different approach: the adoption of legislation that establishes guardrails that will protect consumers and align with what other similarly situated states are doing. Though our industry has already developed technical controls limiting access to data from sensitive locations, we have also supported legislation that would prohibit geofencing at sensitive places of interest for certain use cases. We are confident that we can collectively craft legislation that successfully protects individual privacy rights while also ensuring that we can continue supporting the many beneficial commercial use cases for location data that exist and benefit our society as a whole.

To get into the specifics, location data has long been a mainstay for marketers, who primarily use it for ad targeting: for example, a fitness brand might utilize a data list of mobile devices that visit gyms and other fitness studios to advertise its latest line of workout gear. But in recent years, analytics derived from location data have also become an important source of intelligence for businesses across industries, as well as federal and state governments and municipalities. Complex analytics that reflect human movement would be impossible without commercially-available consumer location data.

Advocates for this proposed legislation would have you believe that location data puts the privacy of ordinary citizens at risk—women who visit reproductive healthcare clinics, for example, or peaceful protesters at an organized event. In fact, the opposite is true; sharing location data helps keep people safe.

When used properly, in conjunction with legal guidance, location data has provided critical tips in support of criminal investigations. Children across the country are now safe at home today because of the important work done by organizations like the National Child Protection Task Force (NCPTF) using commercially available location data.

Importantly, prohibiting the sale of consumer location data also does not mean that this data will cease to exist. Businesses obtaining it directly from their customers will continue to collect and use location data for their own business purposes. At first glance, this internal use model might seem reasonable, but the process of using location data for intelligence is complex. First, the data must be available at scale, because it is most usable in aggregate. Next, the data must be thoroughly cleansed to remove suspicious signals, and then contextualized with information about the location—place type, business details, and demographic information—for it to have meaning. In effect, this legislation would give large technology platforms a monopoly on location data, because only they have enough customers to generate the volume of data needed and the technical know-how to use it.

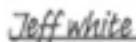
Rather than attempt to legislate the data, and whether it can be purchased, we should instead be focused on legislating its permitted uses, as was done by Washington state earlier this year. Washington law expressly prohibits geofencing sensitive locations, like women's health clinics, for the purposes of targeted advertising or to identify and track consumers seeking healthcare services.

By doing so, Washington was able to protect its residents' interests while preserving such data for legitimate research purposes, such as determining how far people travel to obtain healthcare, especially when anti-abortion legislation in a neighboring state abruptly closes several women's health clinics. This is the kind of legislation we need to protect consumers' privacy rights while also keeping location data available for purchase by those who need it—advertisers, analysts, researchers, and the various organizations they represent.

In conclusion, these bills, while well-intentioned, represent a flawed approach to the protection of individual and collective civil and privacy rights. They serve the interests of big tech rather than the general public. By making it illegal to purchase location data, this legislation will make this critical data, and the intelligence it provides, unavailable to all but the world's biggest technology companies. Businesses in other industries, as well as government entities, would need to rely on big tech for the type of intelligence they glean from commercially available location data today, shoring up big tech's competitive advantage for another generation.

Together, we can craft legislation that protects consumer privacy rights while also ensuring that we can support the many commercial use cases for location data that exist and benefit our society as a whole.

Sincerely,


Jeff White (Jul 17, 2023 13:06 EDT)

Jeffrey White
Founder and CEO
Gravy Analytics, Inc.