

May 21, 2024

To the Members of the United States Congress:

We write today to share our strong concerns with the American Privacy Rights Act (APRA). As currently drafted, the APRA would fail to establish a meaningful uniform national data protection standard and undermines the harmonized data privacy legislation our 15 states — covering 100 million Americans — enacted.

For many years, the undersigned organizations have advocated for Congress to create a national privacy standard that preempts state laws and establishes a consistent enforcement regime to provide consumers and businesses certainty. However, the lack of federal legislation has forced many states to act. Our states have enacted data privacy laws that provide consistent protections and the same enforcement mechanisms. Laws in our states entrust state attorneys general with enforcement and bar private lawsuits that could be used to harm small business and prevent new innovation. Other states, such as California, take a different approach by allowing a private right of action that sets up a litigation-heavy enforcement environment.

The APRA would create the worst of all worlds by failing to create a single, national privacy standard and giving a preference for the California approach of trial bar enforcement.

APRA would not provide full preemption. The draft bill would allow states to regulate on top of federal requirements. Rather than eliminating differences in how data privacy is regulated from state to state, APRA would compound them and create new confusion, duplication, and uncertainty.

The APRA private right of action provisions would allow for an explosion of frivolous litigation by empowering the trial bar to sue small businesses, charities, and other actors who could be forced to settle because they lack the time, expertise, and financial resources to fight back. Additionally, the bill would effectively block arbitration agreements, depriving consumers of the means of timely dispute resolution and remedies. These potential outcomes are the very reason why our states rejected private rights of actions embraced by California and certain other states.

As noted by the U.S. Chamber of Commerce,¹ the approach of APRA would ultimately threaten programs and services consumers value and enjoy, like loyalty programs at restaurants, retail stores, supermarkets, and hotels, online delivery and

¹ <https://www.uschamber.com/assets/documents/USChamber-APRA-Letter.pdf>

transportation services, and advertising and marketing tools small businesses and startups can use to compete with larger, more established companies.

We believe Congress should draw on the experience of our 15 states where there are well-crafted privacy laws that cover 100 million Americans. In its current form, the APRA is the wrong approach. We stand ready to work with Congress on a better path forward.

Sincerely,

U.S. Chamber of Commerce

Colorado

Colorado Chamber of Commerce
Adams County Regional Economic Partnership
Greater Woodland Park Chamber of Commerce
Vail Valley Partnership

Connecticut

Connecticut Business & Industry Association

Delaware

Central Delaware Chamber of Commerce

Florida

AMPLIFY Clearwater
Southeast Volusia Chamber of Commerce
Tampa Bay Chamber
The Greater Zephyrhills Chamber of Commerce
West Orange Chamber of Commerce

Indiana

Indiana Chamber of Commerce
Decatur Indiana Chamber of Commerce
South Bend Regional Chamber

Iowa

Iowa Association of Business & Industry
Shelby County Chamber of Commerce & Industry

Kentucky

Kentucky Chamber of Commerce
Northern Kentucky Chamber of Commerce
Union County KY Chamber of Commerce

Montana

Montana Chamber of Commerce

Nebraska

Nebraska Chamber of Commerce & Industry
Grand Island Area Chamber of Commerce
North Platte Area Chamber and Development Corp.
Seward County Chamber & Development Partnership

New Hampshire

Business and Industry Association of New Hampshire

Oregon

Oregon Business & Industry
Boardman Chamber of Commerce
Roseburg Area Chamber of Commerce
The Dalles Area Chamber of Commerce

Tennessee

Tennessee Chamber of Commerce
Chattanooga Chamber of Commerce
The Germantown Chamber of Commerce

Texas

Texas Association of Business
Fort Bend Chamber
Fulshear Katy Area Chamber of Commerce
Giddings Area Chamber of Commerce
Greater Houston Partnership
Houston Northwest Chamber of Commerce
Kilgore Area Chamber of Commerce
Metrocrest Chamber of Commerce
North Texas Commission
Plano Chamber of Commerce

Washington County Chamber of Commerce

Utah

South Valley Chamber

The Salt Lake Chamber

Utah Valley Chamber of Commerce

Virginia

Virginia Chamber of Commerce

Loudon County Chamber of Commerce

Prince William Chamber of Commerce