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April 26, 2018

Senate President Harriette L. Chandler
Members of the Senate
Boston, Massachusetts 02133

RE: Regarding S.2455, An Act relative to consumer protection from security breaches and opposition to Amendment #11

Dear Senate President and Members of the Senate:

On behalf of the thousands of member employers of Associated Industries of Massachusetts (AIM) I wish to express appreciation to the Senate Ways and Means Committee for addressing two key areas of concern contained in Section 3 and Section 6 of the original legislation referred to the Committee as S.2304.

Regarding the bill now pending before the Senate, AIM wishes to make the following observations and would urge the Senate to amend S.2455 to address these concerns:

- Section 3: AIM urges further review of this language to ensure the underlying intent, which is to require consent for the purposes of obtaining a consumer report at the start of a transaction or relationship, but not for subsequent account maintenance or permissible activities related to an account. As proposed it could be read that a subsequent consent must be obtained for subsequent activities on an existing account, including account maintenance, collections activities, and other legitimate purposes. AIM urges that the language does not limit or require a business or customer to provide or authorize a subsequent consent requirement for the purposes of conducting business related to the same contract or purpose.
- Section 22: AIM urges that this section be struck in its entirety. This language would require the Office of Consumer Affairs and Business Regulations (OCABR) amend current regulations to require that every entity covered by the state's data security laws (in-state and out-of-state businesses, state agencies, municipalities, and the Legislature) to certify affirmatively, under penalty of perjury, that the entity maintains an information security program that complies with state laws and regulations. AIM supports and helps businesses find resources to address data security issues, however this requirement is duplicative and overly burdensome.
- Section 23: AIM urges that this section be amended in two ways.

First, by adding current statutorily defined risk standards to “unauthorized acquisition” of personal information. Current law defines risk for data breaches, however as proposed unauthorized acquisition of personal information does not have the same risk standard. AIM believes the risk standard should be applied uniformly to data breaches and unauthorized acquisition of personal information.

Second, by striking out language that would require a business to notify before a full investigation has been done. As proposed, a business would be required to provide notice even if the number of consumers is not yet known. This would cause unintended consequences of over notification,

incorrect notification and would be difficult to implement. Current notification laws and regulations set notification standards and businesses must first identify exactly who was impacted before notification is made.

These two issues as proposed would add significant notification requirements above and beyond current state laws and regulations.

- Section 24: AIM urges that this language be amended to provide for 1 year of credit monitoring.

Regarding amendments to S.2455, AIM would like to express **opposition to amendment #11 titled Net Neutrality and ISP Privacy**. These are national issues with strong federal preemption against state or location action. A state-by-state solution is not the answer and, in fact, carries its own consumer challenges, potential confusion, and costs. AIM supports an open Internet, which is vital to the Commonwealth and to the business community. AIM urges the Senate to reject a state-by-state approach to regulation to avoid confusion and unintended consequences.

Thank you for taking AIM's perspective into consideration. Should you have questions regarding these specific language changes please feel free to contact me at bmacdougall@aimnet.org or at 617-262-1180.

Thank you for your consideration.

Sincerely,



Brad MacDougall
Vice President for Government Affairs
Associated Industries of Massachusetts