

Bill Number: H. 86

Title: An Act to protect location privacy

Lead Sponsor: Representative Kate Lipper-Garabedian

Hearing Date: April 9, 2025

Report Date: June 8, 2025

See Senate Filing: S. 197

Current Law:

- **M.G.L. Chapter 90 § 1** defines “device,” in part, as used in the bill.
- **M.G.L. Chapter 93A** prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce.
- **M.G.L. Chapter 93A § 4** outlines how the Attorney General may bring suit for a violation of Chapter 93A.

Executive Summary: Prohibits the collection and sale of personal information derived from a device, with or without the knowledge of the user, that directly or indirectly reveals the present or past geographical location of an individual or device within the Commonwealth. Protecting the location data of individuals ensures women seeking reproductive healthcare, those seeking gender-affirming care, physicians providing this care, immigrants, domestic violence survivors, religious minorities, and all individuals are all able to be the protagonist of their own lives and live without fear of persecution or legal action for seeking care that is an exercise of their own bodily autonomy.

Legislative History: Filed as H. 357 (2023-2024) Referred to CPPL; no action taken

Section 1. Definitions

“Individual”, a person located in the Commonwealth of Massachusetts.

“Location information”, information derived from a device or from interactions between devices, with or without the knowledge of the user and regardless of the technological method used, that pertains to or directly or indirectly reveals the present or past geographical location of an individual or device within the Commonwealth of Massachusetts with sufficient precision to identify street-level location information within a range of 1,850 feet or less. Location information includes but is not limited to (i) an internet protocol address capable of revealing the physical or geographical location of an individual; (ii) Global Positioning System (GPS) coordinates; and (iii) cell-site location information. This term does not include location information identifiable or derived solely from the visual content of a legally obtained image, including the location of the device that captured such image, or publicly posted words.

“Monetize”, to collect, process, or disclose an individual’s location information for profit or in exchange for monetary or other consideration. This term includes but is not limited to selling, renting, trading, or leasing location information.

Section 2. Protection of Location Information

It shall be unlawful for a covered entity to collect or process an individual's location information except for a permissible purpose.

Requires that prior to collecting or processing an individual's location information, a covered entity shall provide the individual with a Location Privacy Policy and obtain consent from that individual. The Location Privacy Policy, at a minimum, requires the following:

- The permissible purpose for which the covered entity is collecting, processing, or disclosing any location information.
- The type of location information collected, including the precision of the data.
- The identities of service providers with which the covered entity contracts with respect to location data.
- Any disclosures of location data necessary to carry out a permissible purpose and the identities of the third parties to whom the location information could be disclosed.
- Whether the covered entity's practices include the internal use of location information for purposes of targeted advertisement.
- The data management and data security policies governing location information.
- The retention schedule and guidelines for permanently deleting location information.

Requires that a covered entity provide notice to individuals of any change to its Location Privacy Policy at least 20 business days before the change goes into effect, and shall request and obtain consent before collecting or processing location information in accordance with the new Location Privacy Policy.

Consent provided under this section shall expire:

- After one year, when the initial purpose for processing the information has been satisfied, or when the individual revokes consent, whichever occurs first.
- Upon expiration of consent, any location information possessed by a covered entity must be permanently destroyed.

Requires that a covered entity that directly delivers targeted advertisements as part of its product or services shall provide individuals with a clear, conspicuous, and simple means to opt out of the processing of their location information for purposes of selecting and delivering targeted advertisements.

Covered entities cannot:

- Collect more precise location information than necessary to carry out the permissible purpose;
- Retain location information longer than necessary to carry out the permissible purpose;
- Sell, rent, trade, or lease location information to third parties; or
- derive or infer from location information any data that is not necessary to carry out a permissible purpose.

- Disclose, cause to disclose, or assist with or facilitate the disclosure of an individual's location information to third parties, unless such disclosure is necessary to carry out the permissible purpose for which the information was collected, or requested by the individual to whom the location data pertains.
- Disclose location information to any federal, state, or local government agency or official unless (1) the agency or official serves a valid warrant or establishes the existence of exigent circumstances (2) disclosure is mandated under federal or state law, including in response to a court order or lawfully issued and properly served subpoena or civil investigative demand under state or federal law, or (3) the data subject requests such disclosure.

Government entities cannot monetize location information.

Section 3. Prohibition Against Retaliation

Covered entities cannot take adverse action against an individual for exercising rights under this chapter, unless location data is essential to the provision of the good, service, or service feature that the individual requests, and then only to the extent that such data is essential.

This prohibition includes but is not limited to:

- Refusing to provide a good or service to the individual;
- Charging different prices or rates for goods or services, including through the use of discounts or other benefits or imposing penalties; or
- Providing a different level or quality of goods or services to the individual.

Section 4. Enforcement

A violation of this chapter or a regulation under this chapter regarding an individual's location information constitutes an injury to that individual and shall be deemed an unfair or deceptive act or practice in the conduct of trade or commerce under chapter 93A.

Any individual alleging a violation of this chapter by a covered entity or service provider may bring a civil action in the superior court or any court of competent jurisdiction; provided that, venue in the superior court shall be proper in the county in which the plaintiff resides or was located at the time of any violation.

The court may award:

- Actual damages, including damages for emotional distress, or \$5,000 per violation, whichever is greater,
- Punitive damages; and
- Any other relief, including but not limited to an injunction or declaratory judgment, that the court deems to be appropriate.

The Attorney General may bring an action pursuant to section 4 of chapter 93A against a covered entity or service provider to remedy violations of this chapter and for other relief that may be appropriate.