

January 20, 2025

The Honorable Bob Lynn, Chair
The Honorable Dennis Mannion, Vice Chair
House Judiciary Committee
The General Court of New Hampshire
107 North Main Street
Concord, NH 03301

RE: HB 1694

Dear Chair Lynn, Vice Chair Mannion, and Members of the Committee:

The State Privacy & Security Coalition (SPSC), representing over 30 companies and seven trade associations across the retail, telecommunications, technology, automotive, healthcare, and payment card sectors, appreciates the opportunity to provide testimony on House Bill 1694. We must respectfully oppose HB 1694 because the bill would fundamentally alter New Hampshire's comprehensive privacy law by replacing a carefully calibrated opt-out framework with an unbounded right to opt out of data processing "for any purpose."

I. HB 1694 ELIMINATES THE CORE LIMITING PRINCIPLE OF NEW HAMPSHIRE'S OPT-OUT RIGHTS

New Hampshire's comprehensive privacy law, RSA 507-H, reflects a deliberate policy judgment shared by all 20 states that have enacted comprehensive privacy laws: consumers should have the right to opt out of specific forms of data processing. Specifically, consumers have the right to opt out of the sale of personal data, targeted advertising, and certain forms of automated processing. See N.H. Rev. Stat. Ann. § 507-H:4(I)(e). Importantly, the law permits processing that is reasonably necessary to deliver products and services, ensure security, prevent fraud, and comply with legal obligations. See N.H. Rev. Stat. Ann. § 507-H:10.

HB 1694 replaces that structure with a materially different approach. By striking the reference to the sale of personal data and targeted advertising and replacing it with an opt-out of processing "for any purpose," the bill removes the limiting principle that anchors the opt-out right to discrete and well-defined activities. The resulting change is not an incremental expansion of consumer rights, but rather a categorical prohibition that applies regardless of context, necessity, or consumer expectations.

II. AN OPT-OUT OF PROCESSING "FOR ANY PURPOSE" IS FUNCTIONALLY UNWORKABLE AND CONFLICTS WITH RSA 507-H

Modern digital services necessarily rely on continuous data processing to function safely, reliably, and lawfully. Even where a consumer is not engaged in advertising-related activity, personal data must be processed to authenticate users, detect fraud, secure networks, prevent abuse, troubleshoot errors, comply with tax and accounting requirements, respond to lawful requests, and satisfy recordkeeping obligations imposed by other state and federal laws.

By permitting consumers to opt out of processing personal data "for any purpose," HB 1694 collapses the distinction that underlies modern American privacy law between discretionary data uses and processing that is inherent to service delivery, security, and legal compliance. A business receiving such a request would lack a clear legal pathway to continue processing data even where continued processing is necessary to protect consumers, maintain system integrity, or comply with independent legal obligations.

That result is compounded by the bill's interaction with existing provisions of RSA 507-H. The comprehensive privacy statute, for instance, expressly permits processing for purposes that are compatible with the context in which personal data was collected and reasonably necessary to provide or maintain a product or service. See N.H. Rev. Stat. Ann. § 507-H:10. The "any purpose" opt-out introduced by HB 1694 directly conflicts with those provisions by suggesting that a consumer may prohibit all processing, even where the statute otherwise authorizes such activity.

No comprehensive privacy statute currently in effect adopts an opt-out structure of this breadth. Existing frameworks instead recognize that meaningful consumer rights must coexist with baseline processing that consumers reasonably expect when choosing to use a product or service. HB 1694 replaces that balance with an absolute rule that cannot be operationalized in practice and introduces internal inconsistency into a law designed to provide clarity, predictability, and enforceable standards.

III. HB 1694 MOVES NEW HAMPSHIRE AWAY FROM THE NATIONAL PRIVACY FRAMEWORK

New Hampshire's comprehensive privacy law was deliberately crafted to align with the national privacy framework that has now been adopted across two other New England states and in fifteen additional states nationwide. That model protects the data rights of more than 100 million Americans while allowing businesses to operate across state lines under consistent rules. The opt-out structure currently reflected in RSA 507-H is a core feature of that national approach.

HB 1694 moves New Hampshire away from that framework by expanding the opt-out right to cover processing "for any purpose," untethered from the nature of the activity. That expansion places New Hampshire outside the emerging national consensus and replaces a harmonized opt-out structure with a one-off regime that cannot be readily reconciled with existing multi-state privacy law compliance programs.

[insert paragraph discussion how operationally this would undermine the utility of the opt-out links and UOOM, all of which address policy concerns around how consumers control their data related to targeted advertising and the sale of data.]

Such divergence does not meaningfully enhance consumer protection. Instead, it increases complexity for consumers attempting to understand the scope of their rights, raises compliance costs for businesses subject to overlapping and inconsistent obligations, and introduces legal uncertainty for regulators charged with enforcement. At a time when RSA 507-H is only beginning to take effect, maintaining alignment with the national model is critical to ensuring that New Hampshire's privacy law remains workable, enforceable, and consistent with the protections afforded to consumers across the country.

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For these reasons, SPSC respectfully urges the Committee to find HB 1694 inexpedient to legislate. New Hampshire has already enacted a comprehensive privacy law that provides meaningful consumer rights, clear obligations for businesses, and effective enforcement mechanisms. Replacing a targeted opt-out tied to specific high-risk activities with an unbounded prohibition on processing "for any purpose" would undermine that framework rather than improve it.

We appreciate the time and energy your office has put into this legislation and thank you for your consideration of our comments. Please do not hesitate to contact us with any questions or concerns.

Respectfully submitted,



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