



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

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ORIGINAL

ARGEO PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR



January 4, 2000

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue NW, Room H-159
Washington, DC 20580

Dear Secretary Clark:

I am privileged to nominate Jane Swift, Lieutenant Governor of the Commonwealth of Massachusetts, to serve on the Federal Trade Commission's Advisory Committee on Online Access and Security. Since her election as the Commonwealth's Lieutenant Governor, Jane Swift has placed privacy squarely at the top of our Administration's priorities. Only days after our election, she convened a working group to study the erosion of privacy in the information age. Subsequently, this past spring, we filed sweeping omnibus legislation dealing with both consumer access to personal information and the security of such information. Her work in drafting and promoting this groundbreaking legislation has earned her national recognition as a leader in the evolving and complex area of privacy.

Our omnibus legislation, *An Act Relative to a Consumer's Right to Privacy*, establishes new protections for individuals against increasingly invasive data mining practices. It empowers individuals to control the indiscriminate spread of their personal information; it provides new procedures to inhibit identity theft; and it creates bright line prohibitions against trafficking in information about children. Not surprisingly, our Administration's legislation has received national attention. It has recently been featured in national publications: the *Wall Street Journal* and the *Christian Science Monitor*; the privacy publications: *Privacy and American Business* and *Privacy Times*; and the trade publications: *American Banker* and *Investment News*. Lieutenant Governor Swift was also the keynote speaker at Privacy and American Business' national conference in November 1999.

In addition, Massachusetts has been contacted by numerous states interested in replicating her privacy initiatives. The recent federal financial modernization legislation unambiguously defines the state's role in protecting privacy, and it is safe to say that no state executive officer has been more immersed in this area than Lieutenant Governor Swift. She has consistently stated that although the federal government is better equipped to deal with many of the issues affecting online privacy and electronic commerce, states should not stand idly by if the federal government or the private sector do not establish adequate core protections for our citizens. Thus, as a member of the Advisory Committee, she could be expected to insist that if effective consumer protections are not implemented on the national stage, by either the public or private sectors, states must not hesitate to act.

Being a former legislator, Lieutenant Governor Swift has a keen handle on how public frustration with ineffective self-regulatory schemes can lead to a call for a more active governmental role. However, as an executive officer of a state the Progressive Policy Institute has named as having the nation's best "New Economy," based on the number of IT employees, entrepreneurial rates and mix of cutting edge technological fields, Lieutenant Governor Swift understands the importance of not unduly burdening electronic commerce through governmental intrusion. In fact, in an effort to promote electronic commerce, our Administration has called for a permanent moratorium on state sales taxes on Internet sales. Her experience with balancing the often-competing interests of businesses and consumer would be very useful to the Advisory Committee.

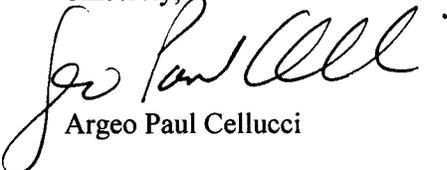
Besides Jane Swift's general policy background, she has specific experience with many of the particular access and security issues that may be discussed by the Advisory Committee. She has heard many arguments both in favor of and in opposition to these issues and has carefully researched her proposed recommendations. For example, Jane Swift has proposed that consumers should be provided access to their own personal information held by Individual Reference Services Providers. She has proposed that these companies are held to reasonable security procedures comparable to those required of credit reporting agencies under state and federal law. Furthermore, Jane Swift has pushed for notification to individuals when another party retrieves a personal profile about them. In an effort to combat the growing crime of identity theft, the Lieutenant Governor supports requiring credit-reporting agencies to verify four personal identifiers before releasing a credit file. In addition, she is working to prevent the transfer of personal information held by Internet Service Providers unless specifically authorized by a subscriber or otherwise legally required. More importantly, she strongly believes that an "opt-in" choice – the centerpiece of our privacy legislation – would prohibit any retailer operating within the jurisdiction of Massachusetts from transferring personal information to other parties for marketing purposes without receiving the affirmative consent of that individual.

Lieutenant Governor Swift would be a tremendous contributor to the Advisory Committee. Not only does she grasp the issues of consumer privacy, but she also knows the importance of providing the necessary balance between the growth of business technology and an ever-shrinking sense of private identity. E-commerce, as a burgeoning industry, needs the trust of its consumers to achieve the lofty goals that many people expect. Consumer e-confidence is crucial to the future of this industry, and that can only be reached if business and government work to maintain the trust of the public.

As we enter the new century, we expect Massachusetts to take center stage in the consumer and technology privacy debate because of the national interest in our Administration's privacy initiatives and Lieutenant Governor Swift's prominent leadership on this issue. Lieutenant Governor Swift would be a unique and influential representative to the Advisory Committee. Not only is Jane Swift experienced with the myriad of highly technical issues surrounding the privacy debate, but she is also mindful of the importance of providing the necessary balance between privacy and economic growth.

Thank you for your consideration of this nomination.

Sincerely,



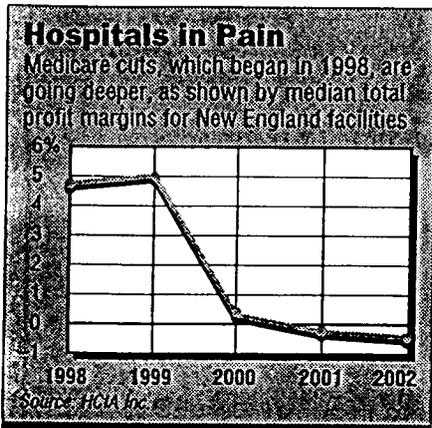
Argeo Paul Cellucci

Enclosures

Medicare Cuts Hit Efficient Hospitals Hardest, Study Says

Continued From Page NE1
 the storm, according to HCIA.
 Providence is in a category of its own: "challenged." While its hospitals are forecast to show a substantial loss, HCIA says they have room to economize.

For ideas where to cut, those Providence hospitals can look elsewhere in the region. The consultants found evidence of



deep cost cutting in New England between 1995 and 1997. For example, the average patient stay went from almost three days longer than would be expected, given the severity of the illness, to 1.4 days shorter than would be expected, HCIA says.

"It appears that hospitals in this area are managing charges and costs well, and don't have much room to lower them further," the study says. Hospital executives say they have been pressed relentlessly by managed-care plans.

And now they are in Washington, trying to get Congress to soften the effects of the 1997 law. Intended to save Medicare \$103 billion from 1998 through 2002, it's now on target to chop \$191.5 billion, according to the Congressional Budget Office.

Richard J. Pollack, executive vice president of the American Hospital Association, says the congressional budget resolution in the spring set aside more than \$100 billion in a reserve fund. But there are other ideas for spending the money, including President Clinton's plan for Medicare to cover drug costs—under which hospital cuts would continue beyond 2002.

Slicing Lessons

One question the study raises: How did the region's hospitals cut costs so fast?

A spokesman for the Massachusetts Nurses Association in Canton has a blunt answer: "They're beating the hell out of nurses."

Gloria Craven, director of government affairs for the nurses' group, says one nurse often must care for seven or eight gravely ill patients on a unit, and all too frequently is forced to work a double shift. "They truly dislike mandatory overtime,"

she says. "It's not safe for them and not safe for the patients."

Some hospitals have found other ways, though. Massachusetts General Hospital in Boston, for example, began an operations-improvement program in 1995 that so far has saved \$126 million, says its director, physician Elizabeth Mort. In the past year, she says, it cut \$43 million out of a budget of about \$800 million.

The goals of the program were to improve patient care and satisfaction while saving money where possible, she says.

Lab Consolidation

For instance, by consolidating the hospital's six independent laboratories into one in 1997, the hospital saved \$1.5 million a year on an \$18 million lab budget. Also, the number of tubes of blood required from each patient was reduced significantly.

The hospital invested \$250,000 in a voice-recognition transcribing machine for X-ray departments, Dr. Mort says. "The project broke even in four months," she says, but that's not all: Doctors now get their reports in a few hours; human transcribers take four days.

Jeanette Ives Erickson, senior vice president and chief nurse at Mass General,

Heading for the Red

Hospitals in six New England cities are in danger, the study says.

	TOTAL PROFIT MARGIN 1997	TOTAL PROFIT MARGIN 2002
Boston metro area	2.05%	-3.12%
Bridgeport, Conn.	4.54	-0.89
Hartford, Conn.	3.10	-2.07
New Haven	2.52	-3.55
Meriden, Conn.		
Springfield, Mass.	4.96	-0.21
Worcester, Mass.	3.41	-1.73

While three are considered safe, and one is challenged.

	TOTAL PROFIT MARGIN 1997	TOTAL PROFIT MARGIN 2002
Bangor, Maine	7.67%	2.50%
Nashua, N.H.	6.58	1.41
Portland, Maine	7.38	2.21
Providence, R.I.	3.03	-2.14

says she doesn't believe in forced overtime. "I believe it's up to us to find new ways of delivering care, but never to compromise the nurse-patient relationship," she says. "It's a sacred trust."

Her staff has found some ways to become more efficient, such as in the paperwork that nurses have to fill out before a patient is sent home. "We had 17 forms, and now we have one," she says.

And a patient-education center now provides materials for patients and families—with the aim of delivering better information in less time, Ms. Ives Erickson says. "We're not looking at take-aways," she says. "We're looking at improvement."

Tighter Rein on Lists Of Consumer Data Sought in Bay State

By GEETA O'DONNELL ANAND
 Staff Reporter of THE WALL STREET JOURNAL

BOSTON—As part of a comprehensive package of privacy protections, the administration of Massachusetts Gov. Paul Cellucci is proposing state legislation this week to make retailers and other companies obtain consumers' permission before selling information on their buying habits.

Lt. Gov. Jane Swift, one of several members of the Cellucci administration expected to testify before the state Legislature's Joint Committee on Commerce and Labor today, says people usually have no idea information on everything they buy—from prescription drugs to magazines and food—is being compiled and sold. The information is being used by marketers but also by employers, insurers and others interested in consumers' personal profiles.

Getting More Control

Daniel A. Grabauskas, director of the state Office of Consumer Affairs and Business Regulation, says the legislation tries to give people more control over the use of information about themselves.

"Individuals should have the right to decide who should and shouldn't know information about the most intimate aspects of their lives," he says.

Specifically, he is proposing that companies interested in selling lists of customers or their purchases obtain permission before doing so. Currently, some companies will allow customers to "opt out"—or remove their names—from selling lists. Mr. Grabauskas says he wants to turn the tables on the companies and make it their responsibility to find out which customers want to "opt in," or be included in the lists.

Chet Datzell, a spokesman for the Direct Marketing Association, a New York-based industry group of 4,500 companies, suggested the legislation was unnecessary because companies selling information are only trying to match consumers with companies selling products they may need.

"Our society allows information to be used for wise and beneficial uses, and laws to restrict it only when there's harm," he says. "In this instance, there's only benefit from the exchange of information because it creates more relevant marketing offers."

Keeping It Personal

Ms. Swift, however, argues that the effects of putting personal information out in the marketplace could be devastating to an individual. "Knowing what drugs you take could be misinterpreted and misused by an insurance company or a potential employer," she says.

Ms. Swift adds: "If the marketing association thinks they're being so helpful, they shouldn't be concerned that we're allowing consumers the right to decide if they want the information to be collected."

P. NE3
 July 21, 1999

Bill aims to curb release of personal data

By Brian MacQuarrie
GLOBE STAFF

Seeking to limit the collection and unauthorized use of personal data, the Cellucci administration has proposed sweeping legislation to protect children and give Massachusetts residents greater control over the distribution of information about them.

Lieutenant Governor Jane Swift, who announced details of the package yesterday, called the initiative one of the most ambitious in the country to regulate the "mind-boggling" proliferation of information that businesses clandestinely catalog about consumers and then sell to others.

The primary focus of the legislation, Swift said, is safeguarding the privacy of children. "We can all do a better job protecting our children from the threat presented by this powerful information- and mis-information-gathering technology," the lieutenant governor said.

The bill would require data-collection agencies to obtain the consent of a parent or guardian before obtaining or distributing information about a child. The agencies also would be required to provide parents or guardians with copies of the information and the name of

the person to whom it was sent.

The proposal received enthusiastic support from Marc Klass, whose 12-year-old daughter Polly was abducted and murdered in 1993 in California by a man who obtained her address from a marketing firm. "This information is for sale to almost anyone who wants it," Klass said. To obtain the names, addresses, and phone numbers of "all blond, blue-eyed girls in a certain ZIP code" costs only about \$100, Klass cited as an example.

"We should purge children's names from databases. It's as simple as that," Klass said.

After his daughter's death, a reporter using the name of her killer was able to obtain a computer printout with the identities, ages, and addresses of children living in 5,500 households in Pasadena, Calif. The transaction was conducted over the telephone and cost \$277.

"People are very frustrated," said state Consumer Affairs Director Daniel A. Grabauskas. "They're looking for an electronic version of the 'Do Not Disturb' sign."

In addition to the child-privacy proposals, the legislation includes provisions to:

- Provide individuals with access to data about them and re-

phone calls, and recording the number of keyboard strokes per minute.

- Bar the hiring of inmates by information-collection agencies for data processing. People on the sex-offender registry also would be excluded.

- Enact into law the current policy of the Registry of Motor Vehicles not to sell personal information.

- Bolster the identity-theft law and protect victims by not allowing unpaid bills resulting from identity theft to appear on their credit reports.

The near-absence of regulation over personal information astounded the administration's transition team on "quality of life" issues, said the group's chairwoman, Lowell Mayor Eileen Donoghue. "We had no idea how technology has become such a runaway train. There is little or no legislation out there around the country," Donoghue said.

In a related move, Swift signed an executive order yesterday to require all state agencies to examine their policies and ensure that personal information is stored securely and distributed only when necessary.

'People are very frustrated. They're looking for an electronic version of the "Do Not Disturb" sign.'

DANIEL A. GRABAUSKAS
State consumer affairs director

quire collectors to notify those people when the information is sold.

- Prohibit retailers or credit-card companies from collecting or selling personal information without consent. Consumers also would have easier opportunities to "opt out" of lists held by direct marketers.

- Restrict the sale or distribution of viewing records by cable-television companies.

- Prohibit Internet providers from selling or sharing their customers' personal information or browsing records without consent.

- Require the posting of company surveillance policies, such as the specific locations for videotaping employees, monitoring their

TUESDAY, AUGUST 17, 1999
Headlines

 e-mail this story to a friend

USA



Breaking ground on privacy rights

- A Massachusetts bill would shield consumers from telemarketers, mailing lists.

Stacy A. Teicher
Staff writer of The Christian Science Monitor

Somewhere, there's probably a marketing firm that knows what brand of deodorant you use. Or a luxury condo salesman who knows when your individual retirement account will mature. Or a telemarketing company that knows the best time to catch you at home is from 6 p.m. to 9 p.m., except Thursdays.

If that feels like an invasion of privacy, you're in good company. Indeed, the practice known as "data mining" has become so pervasive that throngs of Americans have pressed lawmakers to regulate it.

Now, in a move being watched by privacy advocates and business groups nationwide, Massachusetts is considering the most comprehensive measure yet to bolster privacy protections for consumers, workers, medical patients, and even children.

"The Massachusetts proposal goes farther than anything else around," says Evan Hendricks, editor of Privacy Times, a newsletter published by the US Privacy Council in Washington. He adds that the giant bill has a fair shot at passage, possibly this fall.

If the measure becomes law it would, among other things, help consumers shield themselves from problems as serious as identity theft and as simple as annoying marketing calls during dinnertime. It would also prohibit sex offenders from holding data-processing jobs, in a bid to protect children, and require employers to notify workers about any electronic monitoring in the workplace.

But its most controversial provision, at least as far as businesses are concerned, would require firms that "mine" for personal data to get explicit permission from individuals to share that information with telephone solicitors, direct mailers, or any other marketing group. Companies would also have to give individuals access to information collected on them - and notify them whenever it is sold.



DATA MINING: A Macy's customer in Boston signs an electronic credit-card receipt. Such transactions are how data firms collect personal information for marketing groups.

BEN GARVIN

Debate over privacy rights versus marketing opportunity has escalated in recent years, as the Internet has revolutionized the science of data gathering. Privacy advocates frame the issue as one of human rights, "that individuals have a right to control information about themselves," says David Sorkin, a professor at the John Marshall Law School in Chicago.

Business groups, on the other hand, are aware of the need to protect consumers' privacy, but they are wary of big costs they say are associated with many provisions of the Massachusetts bill.

If businesses are required to cull their record-keeping systems to give individuals access to all data collected on them, the expense could be "catastrophic," says Alan Westin, publisher of Privacy & American Business in Hackensack, N.J.

Moreover, he says, "you have to look carefully at the effect such bills could have on consumer choice." For instance, about 60 percent of Americans say they like it when a company tailors its offers to individual preferences and buying patterns, according to consumer surveys.

While some businesses have been pioneers in the field of privacy protection, consumer and privacy advocates do not believe industry self-regulation is enough.

"If something goes wrong, the individual needs a remedy," says Mr. Hendricks. "Industry is certainly doing more than it's ever done before, but that's because the threat of legislation is real."

As the nation struggles to achieve consensus on how much control individuals should exert over personal data, state legislatures have been quickest to act. Like Massachusetts, California and New York are considering broad privacy-protection packages. Other states, meanwhile, have taken up bills on individual privacy issues, such as the use of medical and driving records.

"There is more pressure than there ever has been in this country for privacy legislation," says Mr. Sorkin, who directs the Center for Information Technology and Privacy Law. "Until the last year, I would have said the public only cares when there's a horror story.... But we're seeing more of these instances ... and people are seeing how companies can track data about them."

Although there are some federal laws, including the Privacy Act and the Fair Credit Reporting Act, additional statutes from Congress have not come as quickly as the changes in data technology. Congress did pass a Driver's Privacy Protection Act in 1994 to restrict access to information collected for licenses. But that law may be overturned by a pending Supreme Court ruling, making state laws the only such protection available.

Not everybody agrees that control of personal data is a fundamental human right, says Mr. Sorkin. But the industry should brace itself for the possibility that it won't be as successful in state capitals as it has been in Washington. "It's going to be quite a shock to ... businesses if some of this legislation passes."

States Expected to Tighten Reform's

Friday, November 19, 1999 • 11

Privacy Provisions

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◆ By LISA FICKENSCHER

As some members of Congress continue to voice concern over whether the financial reform bill signed into law last week sufficiently protects consumer privacy, many state legislators have

already made up their minds that it does not.

State governments have been prolific in introducing privacy laws that are much tougher than federal laws, and the passage of what some state legislators perceive to be yet another weak national measure may boost stringent privacy proposals that are pending in several large states. This year 1,875 privacy bills were introduced and 356 enacted in 41 states as of August, according to StateNet, a legislation tracking service in Washington.

"The federal government is the late arriver," said Alan F. Westin, publisher and editor of the newsletter Privacy & American Business, which last week sponsored an Arlington, Va., conference on privacy. "The states are far more active."

A primary issue for the states is the presence or absence of policies that let consumers decide whether companies can use their personal information for marketing purposes. The federal financial reform bill endorses "opt-out" notices, which let consumers remove themselves from these marketing programs, but some states are requiring "opt-in" notices, which force companies to seek consumers' permission before using or selling personal information.

"The federal government is the late arriver. The states are far more active."

Alan F. Westin
Privacy & American Business newsletter



"The worse scenario is 50 different privacy regimes."

Christine Varney
Hogan & Hartson

Some states have taken it upon themselves to pick up what they perceive as federal slack. Massachusetts, New York, and California have the most comprehensive pending privacy bills regarding opt-in notices. Other states are considering similar proposals, or already have some opt-in provisions.

In July, Massachusetts Gov. A. Paul Cellucci proposed legislation that would require businesses to give consumers access to the data kept on them, and to notify them whenever their information is sold. It also would prohibit retailers and credit card issuers from collecting or selling personal information without a customer's consent.

"The centerpiece of our legislation is the establishment of an opt-in system," said Massachusetts Lt. Gov. Jane Swift.

Ms. Swift said the new national law does not fully protect consumer privacy. As a result, "someone with a checking account at a bank can expect a phone call from an affiliated stockbroker or insurance agent who knows precisely what that customer has to spend," she said. "This legislation is so loosely written that it would exempt corporations that enter marketing agreements."

Legislators in New York are working closely with Massachusetts to mirror its approach. Daniel Feldman, deputy attorney general of New York, said states should enforce opt-in notices by levying "severe financial penalties" against companies that violate them. Fines must be harsh enough "to change the subculture," he said.

Opponents of opt-out notices say this type of privacy provision puts the onus on the consumer to take action.

"It take an enormous amount of self-education by consumers to understand just exactly to whom they need to say 'No,'" Ms. Swift said.

Moreover, "some companies muddy their opt-out agreements with so much legalese that a consumer may believe they are free, only to have their information still available for public consumption," Ms. Swift said. "Opt-in is cleaner, simpler, and much more equitable for consumers."

Christine Varney, the former Federal Trade Commissioner who now practices law at the Washington firm of Hogan & Hartson, said companies face a challenge when states enact privacy laws that conflict with federal standards. "The worse scenario is 50 different privacy regimes," she said.

Ms. Varney said the most flagrant privacy abuses — those that typically capture headlines — have involved companies that used data in ways the consumer did not authorize.

"Privacy advocates make a good point when they question how companies will use the information they collect," said Mr. Westin, the newsletter publisher, who is also a professor of law at Columbia University. "A lot of companies would say they don't know how they will use it — it's still amorphous."

◇

Elsewhere at the Privacy & American Business conference, Pamela Flaherty, a senior vice president of Citigroup Inc. in charge of privacy matters, defended companies' uses of customer information.

"We use information to provide our customers with advice, to assess risk, and make them feel part of our community," Ms.

Flaherty said.

Citigroup until now has devoted most of its privacy efforts to protecting customers who "want to be left alone," Ms. Flaherty said. "Now it is time for us to focus on those who don't want to be left alone."

Even so, the results of a privacy survey conducted by Louis Harris & Associates for IBM Global Services suggests that consumers do not trust companies to do the right thing with their data in the absence of laws.

"People are looking for legal measure over corporations," said Mr. Westin, who served as academic advisor for the study. "Trust in institutions is not enough, and not there entirely."

In the survey, Louis Harris & Associates conducted a telephone poll of 1,000 adults in Germany, the United States, and the United Kingdom. Consumers were asked about their attitudes toward on-line privacy protections.

The results showed that U.S. consumers have the least trust in companies that gather information about them on-line. Seventy-eight percent of U.S. respondents said they refused to give information to companies because they thought it was not necessary or too personal, compared with 58% in the United Kingdom and 52% in Germany.

Also, 54% of U.S. respondents — compared with 32% of U.K. and 35% of German respondents — decided not to use a company or buy from it because they were not sure how it would use their personal information.

"There is a level of privacy activism by Americans much more than in the U.K. and Germany, whose citizens may assume that the data protection officials [in their countries] are taking care of their rights," Mr. Westin said.

Also at the conference, Secretary of Commerce William M. Daley was awarded Privacy & American Businesses' second annual privacy leadership award. The first one went to Ira Magaziner, the administration's former chief counsel of electronic commerce.

Mr. Daley said, "It is not Big Brother or big business that consumers fear," but "companies they have never heard of."

◇

American Express (C) launched a service last week that is designed to calm consumer fears about Internet companies and help on-line merchants do more business. The New York based card company is offering to help merchants establish privacy policies on their Web sites. The Amex e-commerce resource center also helps merchants build Web sites.

PRIVACY TIMES

EDITOR: EVAN HENDRICKS

Volume 19 Number 13, July 6, 1999

CAPITAL INSIGHTS: Massachusetts Gov. Paul Cellucci and Lt. Gov. Jane Swift, both Republicans, have unveiled comprehensive privacy legislation that goes well beyond any other Federal or State proposal. . . . The bill would allow consumers to block some disclosures of their credit reports and credit "header" data, and extend the State's credit reporting law to "look-up services." Additional protections are included to help battle identity theft. It would create an arbitration board for resolving disputes between consumers, credit bureaus and "individual reference service providers." It would enable individuals to opt out from direct marketing databases. The sweeping measure also would bolster privacy for drivers, children, cable TV, and Internet customers. It even would restrict vehicle and cell phone tracking, as well as the use of biometric identifiers. The bill stemmed from recommendations of a "quality-of-life" committee established by Cellucci's transition team, according to Shawn Feddeman, a spokeswoman for the governor. The predominantly Democratic legislature is scheduled to end its session in November. . . . The U.S. Postal Service has slowed down its efforts to adopt new rules governing private mailboxes (PMBs). Hit with protests about privacy and costs, the Postal Service backed away from its call to make the addresses of business owners using PMBs public, and instead proposed restricting access to law enforcers. It would also delay until April 26, 2000 the requirement that private mailbox users include "PMB," in their mailing address. Finally, it said that acceptable forms of identification do not include Social Security numbers and credit cards. Rick Merritt, of PostalWatch.org, still opposes the PMB-address requirement.

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MASS. COURT GIVES GREEN LIGHT TO PRESCRIPTION PRIVACY SUIT

A Massachusetts judge has given the green light to a privacy lawsuit against a major pharmacy chain, a database firm and two drug companies, firmly rejecting their claims that the suit should be dismissed outright because it had no merit. Barring a quick settlement, the

Bill aims to shield customer privacy

Sharing of data would be curbed

By Patricia Wen
GLOBE STAFF

Massachusetts may soon become one of the most aggressive states in curbing marketers who peddle personal facts about consumers, from their Social Security numbers to shampoo brands.

Aware of consumer annoyance over strangers selling an individual's personal information, top state officials attended a public hearing yesterday on a proposed state law that would give consumers some ways to fight back.

"Our lives are open to anyone willing to pay the right price," said Lieutenant Governor Jane Swift, who proposed the law last month. "Where I live, my phone number, my spouse's name, how many children I have, and my favorite cereal are all items that are for sale."

The wide-ranging bill appears to be on the fast-track for approval, though it faced vigorous opposition yesterday from the state's retailers, banks, and credit-reporting agencies. Representatives of these industries said data collection on individuals should not be viewed as a bad thing, and that it is essential in helping industry reduce retail crime and pitch new products.

Two provisions in the bill are particularly powerful. One would require the state's retailers and credit card issuers to get explicit approval from consumers to sell their personal information to other businesses.

A department store, for example, PRIVACY, Page B7

The Boston Globe

■ PRIVACY

Continued from Page B1

could not sell information about a customer's store credit card or buying patterns without asking the customer first.

State officials said some states, such as Connecticut, have proposed opt-out provisions, which require local business to allow consumers the right to refuse the distribution of their personal information. But the proposed Massachusetts law goes even further, requiring business to get a consumer's approval, and not just offer a chance for the customer

to register disapproval.

The bill also puts severe restrictions on information brokers, who collect biographical data on specific people, not just demographic groups. Under the proposal, these brokers would have to notify a Massachusetts resident whenever the resident's information is sold to another person or group.

To curb the amount of junk mail received by residents here, the bill calls for the secretary of state to keep a list of people who do not want their name peddled by any direct-marketers. Any businesses who plan to solicit residents here would have

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The wide-ranging bill appears to be on the fast-track for approval, though it faced vigorous opposition yesterday from the state's retailers, banks, and credit-reporting agencies.

to inform that donor in advance that his or her private information was being sold or bartered.

Jon Hurst, president of the Retailers Association of Massachusetts and an opponent of the bill, said collecting detailed information often helps businesses identify check-bouncers and potential thieves. He said such fraud ultimately costs the consumer.

The Massachusetts Bankers Association and the Washington, D.C.-based Associated Credit Bureaus also oppose the bill, which they say leaves them without the necessary tools to fight fraud and expand busi-

ness.

"We believe this law is very well-meaning, but we're concerned about unintended consequences," Hurst said.

Senator Stephen Lynch, the South Boston Democrat who is chair of the joint Committee on Commerce and Labor, warned opponents to speak up quickly if they want to affect the bill. He said he wants to move swiftly and hopes the measure will be approved out of the committee within the next two weeks, and possibly by the House and Senate by late fall.

to make sure they do not pitch to anyone on that list.

Consumer privacy issues have been under national scrutiny in recent weeks as many local public television stations, beginning with WGBH-TV in Boston, acknowledged that they swapped donor lists with political parties and politicians.

Under the proposed law, for example, WGBH would have had to make sure the names on its list were not on the secretary of state's do-not-solicit list. And if they gave detailed biographical information on any one donor, thereby acting as an information broker, they would have

Bank-privacy debate not over

By JOE BARTOLOTTA

A debate over financial privacy could soon move from Capitol Hill to Beacon Hill.

Late Thursday in Washington, the U.S. House and Senate easily passed a bill to remove Depression-era barriers that separate banks, brokerages and insurers — but not before a last-minute change that would let states enact tougher privacy rules.

Mr. President Clinton signs the bill as expected, Massachusetts could go to the forefront of the privacy debate. U.S. Gov. Jane Swift has pushed a bill to stop companies from sharing all sorts of customer information.

"I think it will give some needed momentum to our legislation," Swift said of Congress' action. Since June, Swift's bill has been carved up and referred to five committees. It would restrict everything from banking to cell-phone eavesdropping.

Under the Gramm-Leach bill now headed for the White House, banks, insurers and securities firms could merge under a single holding company to create financial supermarkers. The key amendment to let states trump the federal measure

work involves sharing customer data, which raises privacy concerns. While the measure would let organizations share information operating in multiple states

freely across business units, firms would have to tell customers when they distribute or sell information to third parties. Consumers could "opt out," or specify that their data is not to be shared or sold. But exceptions would still let companies give out personal data to other firms.

After tougher privacy changes failed to win backing, U.S. Rep. Edward Markey (D-Malden) and others supported the late-stage amendment to let states trump the federal measure.

An insurance industry spokesman Dan Zielinski said the amendment raises questions and potential problems for companies operating in multiple states.

"This throws a curveball into the equation," Zielinski said. "Instead of having one clear set of rules, you may have many. It might create some confusion and difficulty in compliance." Another concern raised by state government and industry officials was whether a tougher privacy law in Massachusetts would apply to a federally chartered bank.

And if Massachusetts adopts tough privacy laws, would companies move out, to states that allow more information sharing?

"We looked at that carefully," Swift said. "That's why we thought it would be better if the federal government adopted a strong privacy provision."