



***Perspectives from FSF Scholars  
January 27, 2026  
Vol. 21, No. 3***

**Data Privacy Update: After a Quiet 2025, More State Laws Take Effect,  
Rumors of Renewed Congressional Activity Swirl**

by

**Andrew Long \***

**I. Introduction and Summary**

After several years of steady state action and federal false starts, 2025 stood out for its lack of comprehensive data privacy legislative progress at either level. Not a single state law made it across the finish line, and no bill was introduced in Congress. There are, however, two recent developments worth noting. First, the House Energy and Commerce Committee's comprehensive data privacy working group, [established in February 2025](#), [reportedly](#) is planning to introduce a bill as soon as this month. Second, comprehensive data privacy laws in three additional states – [Kentucky](#), [Indiana](#), and [Rhode Island](#) – went into effect on January 1, 2026.

Proven overly optimistic on [more than one](#) previous occasion, I will refrain here from prognosticating on the likelihood that Congress will pass a comprehensive data privacy statute at some point during this calendar year. Instead, I will simply reiterate that consumers and companies alike would benefit from a single set of rules that (1) clearly delineate rights and responsibilities, (2) strike an appropriate balance between protecting personal information and encouraging innovation and investment, and (3) entrust enforcement exclusively to a federal

government agency – that is, the Federal Trade Commission (FTC) – focused squarely on remediating actual harm.

## II. The House Commerce Privacy Working Group May Soon Introduce Legislation

On February 12, 2025, House Energy and Commerce Committee Chairman Brett Guthrie (R-KY) and Vice Chairman John Joyce, M.D. (R-PA) announced the formation of a comprehensive data privacy working group. In a [press release](#), they stated that "[t]he need for comprehensive data privacy is greater than ever, and we are hopeful that we can start building a strong coalition to address this important issue."

As I [noted](#) at the time, the working group's creation marked the first notable federal legislative step forward on privacy since the [last-minute cancellation of a full House Commerce Committee markup](#) in June 2024 of the [American Privacy Rights Act of 2024](#), an effort that for a [brief moment](#) appeared to offer a basis for optimism.

The working group shortly thereafter issued a [Request for Information](#) seeking input on topics including the roles and responsibilities of covered entities, appropriate consumer protections, learnings from existing frameworks (that is, the state-level "patchwork"), data security, artificial intelligence, and enforcement mechanisms.

According to [recent reporting in Politico Pro](#) (subscription required), the working group could introduce legislation "soon."

## III. The Number of Privacy "Patches" Expands to Twenty

Beginning with the [California Consumer Privacy Act of 2018](#), the nation's first comprehensive data privacy law that went into effect on January 1, 2020, I have raised concerns about the harms threatened by a "patchwork" of inconsistent state-level legislative approaches. In particular, 2021's ["Inconsistent State Data Privacy Laws Increase Confusion and Costs,"](#) a *Perspectives from FSF Scholars*, highlighted how differences large and small in the handful of state statutes passed or proposed at that time – on matters such as what specific rights consumers are afforded, which businesses are covered, and how alleged violations are enforced – would impose unreasonable compliance burdens, particularly on smaller and/or newer competitors. Consequently, I concluded that "businesses may find no viable option but to abide a Frankenstein's monster composed of the most unfavorable provisions from the universe of state laws – and consumers will be left in the dark as to the rules of the road that apply."

In the intervening years, a total of twenty states passed unique comprehensive data privacy statutes, significantly exacerbating the scenario I'd foretold. And on New Year's Day 2026, the last three of those laws went into effect:

- The [Kentucky Consumer Data Protection Act](#), which I discussed in an April 2024 *Perspectives* hopefully titled ["Congressional Leaders Return Privacy to the Front Burner,"](#) grants Bluegrass State residents rights to access, correct, delete, and port their

personal data, as well as the ability to opt out of targeted advertising and the sale of personal information.

- The [Indiana Consumer Data Privacy Act](#), which I highlighted in a [May 2023 post](#) to the *FSF Blog*, empowers consumers to know, access, correct, delete, and port data, as well as the ability to opt out of its sale. It also requires businesses, among other things, to provide a privacy notice and other disclosures, obtain affirmative consent before processing "sensitive personal data," and conduct data protection impact assessments.
- The [Rhode Island Data Transparency and Privacy Protection Act](#), which I noted in "[Federal Privacy Bill Hits Roadblock, State Activity Picks Up Speed](#)," a June 2024 blog post, includes relatively large fines: up to \$10,000 per violation, plus additional penalties for disclosures of personal data deemed to be "intentional."

#### IV. Conclusion

As I have stated in numerous prior writings for the Free State Foundation, consumers and companies alike would be better served by a single, consistent set of privacy rights that apply nationwide. Unlike the twenty-state "patchwork" today in place, a federal regime would help individuals appreciate their rights and benefit businesses, particularly smaller upstarts, by taming the existing costly compliance quagmire. Of course, that would require Congress to pass a federal comprehensive data privacy law that fully preempts state-level statutes. A federal floor upon which states would be allowed to build would do little to address the confusion and compliance burdens currently creating inefficiencies and discouraging innovation.

Additionally, and as I explained in a [January 2020 Perspectives](#), enforcement authority should be vested exclusively in the FTC. A private right of action would incentivize plaintiffs' attorneys to pursue potential windfalls, thereby introducing economic inefficiencies and driving up costs rather than addressing actual harms.

Given the repeated failures of Congress to enact such a law, however, rather than make any forward-looking statements, I will instead simply wait, see, and report on any developments that do occur.

\* Andrew Long is a Senior Fellow of the Free State Foundation, an independent, nonpartisan free market-oriented think tank located in Potomac, Maryland. The views expressed in this *Perspectives* do not necessarily reflect the views of others on the staff of the Free State Foundation or those affiliated with it.

**A PDF of this *Perspectives*, with Further Readings, is [here](#).**

#### **Further Readings**

Andrew Long, "[House Commerce Privacy Working Group Seeks Input](#)," *FSF Blog* (March 4, 2025).

Andrew Long, "[House Commerce Leaders Create Privacy Working Group](#)," *FSF Blog* (February 18, 2025).

Andrew Long, "[A Congressional Working Group Takes a Fresh Look at Data Privacy: Now Congress Should Act](#)," *Perspectives from FSF Scholars*, Vol. 20, No. 21 (May 9, 2025).

Andrew Long, "[2024 Data Privacy Legislative Review: Federal Lawmakers Fall Short As More State Laws Gain Teeth](#)," *Perspectives from FSF Scholars*, Vol. 19, No. 44 (December 13, 2024).

Andrew Long, "[Will AI Help or Hinder Federal Privacy Legislative Efforts?](#)" *FSF Blog* (July 16, 2024).

Andrew Long, "[Federal Privacy Bill Hits Roadblock, State Activity Picks Up Speed](#)," *FSF Blog* (June 28, 2024).

Andrew Long, "[Congressional Leaders Return Privacy to the Front Burner](#)," *Perspectives from FSF Scholars*, Vol. 19, No. 13 (April 19, 2024).

Andrew Long, "[More States Compound the Dreaded Privacy 'Patchwork' Problem](#)," *Perspectives from FSF Scholars*, Vol. 18, No. 31 (July 24, 2023).

Andrew Long, "[Seven States and Counting: Indiana Passes Privacy Law](#)," *FSF Blog* (May 5, 2023).

Andrew Long, "[Inconsistent State Data Privacy Laws Increase Confusion and Costs](#)," *Perspectives from FSF Scholars*, Vol. 16, No. 14 (March 16, 2021).

Andrew Long, "[A Privacy Private Right of Action Is Inferior to FTC Enforcement](#)," *Perspectives from FSF Scholars*, Vol. 15, No. 4 (January 21, 2020).