

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after the title and before the enacting clause the following:

**Emergency preamble. Whereas,** acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the sale and disclosure of customer proprietary information is occurring now and is a practice that needs to be addressed immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**Sec. 1. 10 MRSA c. 223-A** is enacted to read:

## **CHAPTER 223-A**

### **CELLULAR TELEPHONE CUSTOMER PRIVACY ACT**

#### **§ 1496-A. Short title**

This chapter may be known and cited as "the Cellular Telephone Customer Privacy Act."

#### **§ 1496-B. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Customer proprietary network information.** "Customer proprietary network information" has the same meaning as in 47 United States Code, Section 222(h)(1) as in effect on January 1, 2006.

**2. Telecommunications carrier.** "Telecommunications carrier" has the same meaning as in 47 United States Code, Section 153(44) as in effect on January 1, 2006.

**3. Wireless telephone service.** "Wireless telephone service" means any mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A.

**4. Wireless telephone service provider.** "Wireless telephone service provider" means a telecommunications carrier that provides wireless telephone service.

#### **§ 1496-C. Sale or disclosure of customer proprietary network information**

**1. Civil violation.** Except as provided in subsection 3, a person may not sell or disclose or offer to sell or disclose any customer proprietary network information relating to the wireless telephone service account of any wireless telephone service customer or user in this State.

A. Violation of this subsection constitutes a violation of the Maine Unfair Trade Practices Act.

**2. Criminal violation.** Except as provided in subsection 3, a person may not knowingly sell or disclose or offer to sell or disclose any customer proprietary network information relating to the wireless telephone service account of any wireless telephone service customer or user in this State.

A. A person who violates this subsection commits a Class D crime.

**3. Exceptions.** The prohibitions contained in subsections 1 and 2 do not apply to a disclosure of customer proprietary network information:

A. Authorized or required by:

(1) Any state or federal law, regulation or rule;

(2) An order of an agency having regulatory authority over a wireless telephone service provider; or

(3) The wireless telephone service account holder; or

B. Required by a subpoena, warrant or other lawful process.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.'

## SUMMARY

This amendment replaces the bill but preserves the main substance of the bill.

This amendment makes the following changes:

1. Reallocates the provisions of the bill from the Maine Revised Statutes, Title 35-A to Title 10, since the provisions do not relate to matters within the jurisdiction of the Public Utilities Commission and there is no intent to have the commission enforce these provisions;

2. Separates the civil and criminal violations for judicial tracking and citing purposes;

3. Clarifies the definition of "wireless telephone service";

4. Adds limiting language to cited definitions in federal law to ensure that changes in those federal law definitions do not affect the meaning or intent of these provisions;

5. Makes the prohibitions in the bill applicable to the sale or disclosure of customer proprietary network information relating to the wireless telephone service account of any wireless service customer or user in this State;

6. Corrects a reference to federal law; and

7. Adds an emergency preamble and emergency clause to the bill.