132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

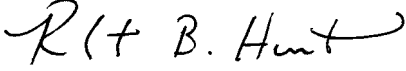| Legislative Document	No. 1788
H.P. 1199	House of Representatives, April 24, 2025

An Act to Strengthen the Freedom of Access Act by Categorizing Commercial Requesters

Reference to the Committee on Judiciary suggested and ordered printed.

R(t B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative HENDERSON of Rumford.

1   **Be it enacted by the People of the State of Maine as follows:**

2   **Sec. 1. 1 MRSA §402, sub-§1-B** is enacted to read:

3   **1-B. Commercial request.** "Commercial request" means a request of a public record
4   pursuant to this chapter that asks for information for a use or purpose that furthers a
5   commercial, trade or profit interest, which can include furthering those interests through
6   litigation. An agency or official's decision to place a requester in the commercial request
7   category is made on a case-by-case basis based on the requester's intended use.

8   **Sec. 2. 1 MRSA §402, sub-§1-C** is enacted to read:

9   **1-C. Educational institution.** "Educational institution" means a school that operates
10   a program of scholarly research.

11   **Sec. 3. 1 MRSA §402, sub-§2-A** is enacted to read:

12   **2-A. Noncommercial request.** "Noncommercial request" means a request of a public
13   record pursuant to this chapter made by an educational institution, noncommercial
14   scientific institution or a representative of the news media or by another person that asks
15   for information, for a use or purpose that is not determined to be a commercial request, on
16   a case-by-case basis.

17   **Sec. 4. 1 MRSA §402, sub-§2-B** is enacted to read:

18   **2-B. Noncommercial scientific institution.** "Noncommercial scientific institution"
19   means an institution that is not operated on a commercial basis and that is operated solely
20   for the purpose of conducting scientific research, the results of which are not intended to
21   promote any particular product or industry.

22   **Sec. 5. 1 MRSA §402, sub-§7** is enacted to read:

23   **7. Representative of news media.** "Representative of the news media" means a
24   person or entity that actively gathers information of potential interest to a segment of the
25   public, uses its editorial skills to turn the raw materials into a distinct work about a current
26   event or that would be of current interest to the public and distributes that work to an
27   audience. "Representative of news media" includes, but is not limited to, television or radio
28   stations that broadcast news to the public at large and publishers of periodicals that
29   disseminate news through a variety of means to the general public, including news
30   organizations that disseminate solely or in part on the Internet.

31   **Sec. 6. 1 MRSA §408-A, sub-§8, ¶B,** as amended by PL 2021, c. 375, §1, is further
32   amended to read:

33   B. The agency or official may charge a fee to cover the actual cost of searching for,
34   retrieving and compiling the requested public record in accordance with this paragraph.
35   Compiling the public record includes reviewing and redacting confidential
36   information.

37   (1) The agency or official may not charge a fee for the first 2 hours of staff time
38   per noncommercial request.

39   (2) After the first 2 hours of staff time per noncommercial request, the agency or
40   official may charge a fee of not more than $25 per hour.

1   (3) The agency or official may establish a fee structure and charge a fee for a
2   commercial request.

3   **Sec. 7. 1 MRSA §408-A, sub-§13** is enacted to read:

4   **13. Certification of use of request.** A person or entity must certify whether a request
5 made pursuant to this section is a commercial request or a noncommercial request and
6 whether the public information subject to the request is likely to be produced pursuant to
7 an ongoing judicial proceeding and provide additional information, as necessary, to the
8 agency or official having custody or control of a public record subject to a request under
9 this section, on a form to be developed by the agency or official.

10   **SUMMARY**

11   This bill prohibits an agency or official from charging a fee to cover the actual cost of
12 searching for, retrieving and compiling a noncommercial request of a public record for the
13 first 2 hours of staff time. The bill allows an agency or official to establish a fee structure
14 and charge a fee for a commercial request of a public record. The bill also requires a person
15 or entity to certify whether a request for a public record is a commercial request or a
16 noncommercial request and whether the public information subject to the request is likely
17 to be produced pursuant to an ongoing judicial proceeding and to provide additional
18 information, as necessary, to the agency or official having custody or control of a public
19 record subject to the request.