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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 566, L.D. 1610, Bill, “An Act To Protect Privacy of Online Customer Personal Information”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Customer Personal Information'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 5 MRSA §1812-H is enacted to read:

§1812-H. Purchasing of broadband Internet access service

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Broadband Internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the service, but excluding dial-up Internet access service.

B. "Customer" means a current or former subscriber to a broadband Internet access service.

C. "Customer personal information" means:
(1) Personally identifying information about a customer, including, but not limited to, the customer's name, billing information, social security number, billing address and demographic data; and

(2) Information from a customer's use of broadband Internet access service, including:

(a) The customer's browsing history;

(b) The customer's application usage history;

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- 1 (c) The customer's precise geolocation information;
- 2 (d) The customer's financial information;
- 3 (e) The customer's health information;
- 4 (f) Information pertaining to the customer's children;
- 5 (g) The customer's device identifier, such as a media access control address,
- 6 international mobile equipment identity or Internet protocol address;
- 7 (h) The content of the customer's communications; and
- 8 (i) The origin and destination Internet protocol addresses.

9 D. "Inappropriate use, sale or disclosure of or access to customer personal
10 information" means the use, sale or disclosure of or access to customer personal
11 information by a provider without the customer's express, affirmative consent; the
12 refusal to serve a customer that does not provide a provider with consent to use, sell,
13 disclose or permit access to that customer personal information; or charging a
14 customer a fee or penalty if the customer does not provide a provider with consent to
15 use, sell, disclose or permit access to that customer personal information.
16 "Inappropriate use, sale or disclosure of or access to customer personal information"
17 does not include the use, sale or disclosure of or access to customer personal
18 information:

- 19 (1) For the purpose of providing the service from which such information is
- 20 derived or for the service necessary to the provision of such service;
- 21 (2) To advertise or market the provider's communications-related services to the
- 22 customer;
- 23 (3) To comply with a lawful court order;
- 24 (4) To initiate, render, bill for and collect payment for broadband Internet access
- 25 service;
- 26 (5) To protect users of the provider's or other providers' services from fraudulent,
- 27 abusive or unlawful use of or subscription to such services; and
- 28 (6) To provide precise geolocation information concerning the customer to:
 - 29 (a) For the purpose of responding to the customer's call for emergency
 - 30 services, a public safety answering point, as defined in Title 25, section 2921,
 - 31 subsection 7; a provider of emergency medical or emergency dispatch
 - 32 services; a public safety, fire service or law enforcement official; or a
 - 33 hospital emergency or trauma care facility;
 - 34 (b) The customer's legal guardian or a member of the customer's immediate
 - 35 family in an emergency situation that involves the risk of death or serious
 - 36 physical harm; or

1 (c) A provider of information or database management services solely for
2 the purpose of assisting in the delivery of emergency services in response to
3 an emergency.

4 E. "Provider" means a person that provides broadband Internet access service.

5 **2. Customer protections; purchasing broadband Internet access service.** The
6 Department of Administrative and Financial Services, Bureau of General Services may
7 not contract for the purchase of broadband Internet access service from a provider that
8 engages in the inappropriate use, sale or disclosure of or access to customer personal
9 information.

10 A provider that contracts with the State for broadband Internet access service may not
11 engage in the inappropriate use, sale or disclosure of or access to customer personal
12 information for the duration of the contract.

13 **Sec. 2. 35-A MRSA §9205-A** is enacted to read:

14 **§9205-A. Grant limitations to providers of broadband Internet access service**

15 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
16 following terms have the following meanings.

17 A. "Broadband Internet access service" means a mass-market retail service by wire
18 or radio that provides the capability to transmit data to and receive data from all or
19 substantially all Internet endpoints, including any capabilities that are incidental to
20 and enable the operation of the service, but excluding dial-up Internet access service.

21 B. "Customer" means a current or former subscriber to a broadband Internet access
22 service.

23 C. "Customer personal information" means:

24 (1) Personally identifying information about a customer, including, but not
25 limited to, the customer's name, billing information, social security number,
26 billing address and demographic data; and

27 (2) Information from a customer's use of broadband Internet access service,
28 including:

29 (a) The customer's browsing history;

30 (b) The customer's application usage history;

31 (c) The customer's precise geolocation information;

32 (d) The customer's financial information;

33 (e) The customer's health information;

34 (f) Information pertaining to the customer's children;

35 (g) The customer's device identifier, such as a media access control address,
36 international mobile equipment identity or Internet protocol address;

37 (h) The content of the customer's communications; and

1 (i) The origin and destination Internet protocol addresses.

2 D. "Inappropriate use, sale or disclosure of or access to customer personal
3 information" means the use, sale or disclosure of or access to customer personal
4 information by a provider without the customer's express, affirmative consent; the
5 refusal to serve a customer that does not provide a provider with consent to use, sell,
6 disclose or permit access to that customer personal information; or charging a
7 customer a fee or penalty if the customer does not provide a provider with consent to
8 use, sell, disclose or permit access to that customer personal information.
9 "Inappropriate use, sale or disclosure of or access to customer personal information"
10 does not include the use, sale or disclosure of or access to customer personal
11 information:

12 (1) For the purpose of providing the service from which such information is
13 derived or for the service necessary to the provision of such service;

14 (2) To advertise or market the provider's communications-related services to the
15 customer;

16 (3) To comply with a lawful court order;

17 (4) To initiate, render, bill for and collect payment for broadband Internet access
18 service;

19 (5) To protect users of the provider's or other providers' services from fraudulent,
20 abusive or unlawful use of or subscription to such services; and

21 (6) To provide precise geolocation information concerning the customer to:

22 (a) For the purpose of responding to the customer's call for emergency
23 services, a public safety answering point, as defined in Title 25, section 2921,
24 subsection 7; a provider of emergency medical or emergency dispatch
25 services; a public safety, fire service or law enforcement official; or a
26 hospital emergency or trauma care facility;

27 (b) The customer's legal guardian or a member of the customer's immediate
28 family in an emergency situation that involves the risk of death or serious
29 physical harm; or

30 (c) A provider of information or database management services solely for
31 the purpose of assisting in the delivery of emergency services in response to
32 an emergency.

33 E. "Provider" means a person that provides broadband Internet access service.

34 **2. Customer protections; grants to providers.** The authority may not provide
35 grant funding under this chapter to a provider that engages in the inappropriate use, sale
36 or disclosure of or access to customer personal information.

37 A provider that receives grant funding from the authority may not engage in the
38 inappropriate use, sale or disclosure of or access to customer personal information for 5
39 years from the date funds are received.

