



**Testimony of
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In Opposition to Maine LD 1705

**Before the
Maine Joint Committee on Judiciary**

May 22, 2023

Chairs and members of the committee, on behalf of CTIA®, the trade association for the wireless communications industry, I submit this testimony in opposition to LD 1705. This bill places businesses under a strong threat of litigation with little benefit for consumers.

This legislation is modeled after a biometric privacy law in Illinois, enacted in 2008, which has led to myriad lawsuits and little consumer protection. Maine should not look to replicate this problematic law. The private right of action contained in the bill would subject companies to the risk of expensive litigation that primarily benefits the plaintiffs' bar and offers little relief to consumers. This has shown true in Illinois, where at the end of 2019, nearly 300 lawsuits were filed regarding their law – almost four times the total for 2018, the previous high watermark. Through September of 2021, according to a search of court filings, plaintiffs' lawyers have filed over 900 cases alleging violations under the BIPA law in Illinois.¹ These lawsuits have targeted businesses both large and small for alleged technical violations linked

¹ <https://institutelegalreform.com/research/ilr-briefly-a-bad-match-illinois-and-the-biometricinformation-privacy-act/>



to collecting, using, and sharing biometric identifiers, like those indicated in this bill.

Moreover, for over 20 years, the Federal Trade Commission has developed and enforced an effective privacy framework that applies to all players in the internet ecosystem. The FTC is an active consumer privacy enforcer. It has brought over 500 enforcement actions protecting consumer privacy. Through these enforcement actions, as well as through extensive policy guidance, the FTC has articulated a consumer privacy framework in which more sensitive personal information including biometric or genetic information, is generally subject to heightened protections, while there is greater flexibility to collect, use, and disclose non-sensitive information. The FTC is also policing the issue and has warned entities about the misuse of such data.² In addition, the Maine Attorney General already has the authority to address unfair or deceptive acts or practices relating to consumer privacy under state consumer protection laws. Because of these existing federal and state measures, and other privacy laws, biometric data is already protected.

This bill raises complex issues and replicates a litigious statute, which was passed over 15 years ago and has not been enacted in any other state. It is not a path that Maine should follow. As stated, passage of this legislation opens businesses to the threat of abusive litigation. Accordingly, CTIA respectfully requests that you not move this legislation. Thank you for your consideration.

² <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-warns-about-misuses-biometric-information-harm-consumers>