

**TESTIMONY OF Brian Parke  
L.D. 1815, “An Act to Protect Maine's  
Consumers by Establishing an Abuse of  
Dominance Right of Action and Requiring  
Notification of Mergers”**



Good afternoon, Senator Curry, Representative Roberts, and members of the Committee On Innovation, Development, Economic Advancement and Business. My name is Brian Parke and I am the President and CEO of the Maine Motor Transport Association and a resident of Brunswick. The Association is comprised of more than 1,740 member companies, whose employees make up a large portion of the 34,000 people who make their living in the trucking industry in Maine.

This is not a bill that the trucking industry would normally weigh in on, however it was brought to our attention by our counterparts in the larger business community. We are testifying in opposition to the bill because we are unclear about the likely impacts, especially when it comes to Section 6. We believe the lack of clear definitions will create compliance confusion and thus serve as an engine for litigation in the future.

For instance, the terms “dominant position” and “abuse” need further clarification. Subsection 4 attempts to define “dominant position”, but in the trucking world, our members set prices, terms, conditions and standards with our drivers, our warehouse personnel, our technicians, if a freight broker is used, sometimes with our customers/shippers and often with owner/operators who are hired to augment freight demand. And while no trucking company has the ability to set wages throughout the industry, you can bet each of our members set their own wages, driven by market forces and freight demands.

An alternative attempt to clarify “dominant position” is in §1120-K(4)(B) where it says indirect evidence can include someone’s share of a relevant market. A “relevant market” determined by whom? Is it a company’s number of trucks compared to the total number of trucks registered in Maine? Is it the number of miles driven? How about tonnage hauled, or number of loads, or freight revenue by commodity – logs versus bulk water versus groceries versus less-than-truckload versus hazmat, etc? Is it broken down by dry van, compared to tanker, compared to flatbed, compared to refrigerated, and all the rest? And then, what is the

threshold for the “share” of this ambiguous market that must be met before the equally ambiguous “dominant position” standard is met?

Then there is the issue of the definition of “abuse” that is attempted to be defined in §1120-K(6). It is not clear to us that this evidence of abuse wouldn’t include things like trucking companies offering preferential pricing to shippers given their volume fuel purchasing discounts or having lower insurance costs from adopting a more effective safety culture. Or hiring away drivers from another company because they can afford to pay a substantial bonus or premium wage. Better yet, if they simply have built their trucking business to have more than 49 employees and \$25 million in annual revenues – this bill would **presume** their abuse of a dominant position in many real-world competitive situations.

We agree with many of the opponents you will likely hear from today that this bill creates many unintended, but completely avoidable consequences. We ask that you oppose LD 1815.

Thank you for your consideration and for allowing me to testify. I would be happy to answer any questions the committee has now or at the Work Session.