

# Manufacturers Association of **Maine**

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08 January 2024

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Sen. Curry, Rep. Roberts and distinguished Members of the Joint Standing Committee on Innovation, Development, Economic Advancement and Business, My name is Mike Roughton. I am testifying on behalf of the Manufacturers Association of Maine in opposition to LD 1815, An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers.

Maine hosts more than 1880 manufacturing businesses employing 56,700 Maine workers, with payroll topping \$3.6 billion, representing 14.5% of wages paid statewide. Manufacturers in Maine build everything from DDG destroyers to silicon chips for electronics to baseball bats favored by professional athletes. Our testimony today will focus on the Abuse of Dominance section of the proposal, specifically the lack of clarity, and the potential to stifle innovation and investment.

As written, LD 1815 would allow a plaintiff to bring an action against any person with a dominant position in the conduct of any business, trade, or commerce, in any labor market or in the furnishing of any service in this State that abuses that dominant position. It goes on to define dominant position as a person that has a 60% or more share of a relevant market as a seller or a person who has 50% or more of a relevant market as a buyer. However, the definition raises significant questions. What is a relevant market? Is that town, state, nation? Who determines that relevant share of the market? The lack of clearly defined terms makes this proposal difficult to understand and provides little guidance as to what constitutes an abusive action. If passed, this bill could open many of MAME's members up to meritless legal action and cause significant financial losses to those businesses.

As you all know, Maine has many innovative businesses. Whether defense contractors, biomedical or veterinary products, or the preferred tools of the music industry, our companies make products that are in high demand. What LD 1815 is proposing could stifle the drive for innovation, a cornerstone of Governor Mills Ten Year Economic Development Plan and discourage research and development. Companies who hold what might be perceived to be a dominant position in the market are less likely to make investments in R&D or introduce new products and services for fear of being accused of abusing said dominance.

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Just last session, this committee passed LD 1918, An Act to Modernize Maine's Business Incentive Programs. MAME testified in favor of that legislation with the belief that working collaboratively with the State to strengthen and grow Maine businesses was key to a thriving economy. We still believe that, but fear LD 1815 will undo those efforts. Part of LD 1918 focused on capital investment, encouraging businesses to grow and innovate while giving them access to the tools to do so. What is being proposed in LD 1815 could dampen or potentially undo the probable positive impacts of LD 1918.

On behalf of MAME's membership, I ask that you oppose the Abuse of Dominance section of LD 1815. .

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