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May 5, 2025

Hon. Anne Carney, Senate Chair
Hon. Amy Kuhn, House Chair
Committee on Judiciary
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

RE: 1284, *An Act to Repeal Provisions of Law Governing the Privacy of
Broadband Internet Customer Personal Information*

Dear Senator Carney and Representative Kuhn:

My name is Brendan O'Neil, I am an Assistant Attorney General and appear on behalf of Attorney General Aaron Frey in strong opposition to L.D. 1284, An Act to Repeal Provisions of Law Governing the Privacy of Broadband Internet Customer Personal Information. This bill would repeal a landmark consumer privacy law that provides some of the strongest protection for broadband internet customers in the country and has survived First Amendment and preemption challenges lodged by a group of telecommunications trade associations.

This first in the nation law restricts the extent to which Internet Service Providers (ISPs) may use, disclose, or sell their customers' personal information, such as their browsing history, their location, the content of their communications, and their financial and health information. As the Federal Trade Commission has noted, because ISPs are essentially the gateways or onramps to the internet, they can collect vast amounts of information regarding their customers' online activity. Recognizing that position, the Maine Legislature wisely enacted the ISP law with very strong protections for consumers' online information, and it should not now retreat from its zealous protection of our residents' privacy.

I urge the Committee to vote ought not to pass L.D. 1284 and thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Brendan O'Neil".

Brendan O'Neil
Assistant Attorney General

§9301. Privacy of broadband Internet access service customer personal information

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, excluding dial-up Internet access service. [PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF)]

B. "Customer" means an applicant for or a current or former subscriber of broadband Internet access service. [PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF)]

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 but not limited to.

(a) The customer's web browsing history;

(b) The customer's application usage history;

(c) The customer's precise geolocation information;

(d) The customer's financial information;

(e) The customer's health information;

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

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

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

(i) The origin and destination Internet protocol addresses. [PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

D. "Provider" means a person who provides broadband Internet access service. [PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

[PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

2. Privacy of customer personal information. A provider may not use, disclose, sell or permit access to customer personal information, except as provided in subsections 3 and 4, Title 16, chapter 3, subchapters 10 and 11 and 18 United States Code, Section 2703.

[PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

3. Customer consent exception. Consent of a customer is governed by this subsection.

A. A provider may use, disclose, sell or permit access to a customer's customer personal information if the customer gives the provider express, affirmative consent to such use, disclosure, sale or access. A customer may revoke the customer's consent under this paragraph at any time. [PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

B. A provider may not:

(1) Refuse to serve a customer who does not provide consent under paragraph A; or

[PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

6. Notice required. A provider shall provide to each of the provider's customers a clear, conspicuous and nondeceptive notice at the point of sale and on the provider's publicly accessible website of the provider's obligations and a customer's rights under this section

[PL 2019, c. 216, §1 (NEW); PL 2019, c. 216, §2 (AFF).]

7. Applicability. The requirements of this section apply to providers operating within the State when providing broadband Internet access service to customers that are physically located and billed for service received in the State.

[PL 2019, c. 216, §1 (NEW), PL 2019, c. 216, §2 (AFF)]

SECTION HISTORY

PL 2019, c. 216, §1 (NEW) PL 2019, c. 216, §2 (AFF).

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