

May 7, 2025

Senator Anne Carney
Representative Kuhn
Judiciary Committee
3 State House Station
State House, Room 438,
Augusta, Maine 04333

RE: LD 1088 An Act to Enact the Maine Consumer Data Privacy Act
LD 1224 An Act to Comprehensively Protect Consumer Privacy
LD 1284 An Act to Repeal Provisions of Law Governing the Privacy of
Broadband Internet Customer Personal Information
LD 1822 An Act to Enact the Maine Online Data Privacy Act

Dear: Senator Carney and Representative Kuhn,

These comments augment the testimony presented at the public hearing on the above bills. The Maine Automobile Dealers Association (MADA) is the Association of all new car and truck dealers in Maine. Maine dealers are required to comply with a number of different statutes which impose varying privacy obligations. As such, Maine dealers should be fully exempt from the various provisions of the proposed legislation.

Several of the proposed bills before the Committee do exempt data provisions, such as the Gramm-Leach-Bliley Act (GLBA). Dealers are regulated by GLBA. Dealers are also broadly regulated by the Federal Trade Commission (FTC) (15 USC, section 41 et seq.), and more specifically, by the Fair Credit Reporting Act, (15 USC, section 1681(FCRA)) and the Fair and Accurate Credit Transaction Act (FACT Act), (15 USC, section 1601). These two laws, along with the FTC Rules and regulations, protect consumer data in relation to credit transactions, and more broadly, information received from consumers by dealers. The Red Flags Rule is part of FTC regulation, also known as the FACT Act Identity Theft Rules. This rule requires dealers to implement a written identity theft prevention program designed to detect warning signs of identity theft. This involves protecting sensitive consumer information. The Red Flags Rule was issued in 2007 under section 114 of the FACT Act, which in turn amended the FCRA. The Rule is published at 16 CFR 681.1.

In addition, even though dealers have obligations to keep data and consumer information private, they are also required to report to the Internal Revenue Service (IRS) the receipt of cash or cash equivalents of more than \$10,000 in a single transaction or two or more related transactions. IRS form 8300: BSA E-FILING System. This requires reporting "identifying documents" in some detail.

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In addition, MADA runs a Multiple Employer Welfare Arrangement (MEWA). This is a self-insured health plan offering coverage to dealers and their employees and families. It is regulated by the Bureau of Insurance. 24-A MRS ch.81. This regulatory authority extends to the privacy chapter of Title 24-A (24-A MRSA ch.24). This means dealers' privacy requirements are also regulated by the Bureau.

Also, telematics is now a critical component of owning and operating a motor vehicle. As such, Maine dealers are privy to significant consumer information stored in a vehicle's electronic components. The Maine right to repair statute, 29-A MRS §1801 et seq., does regulate access to telematics for repairs. The Housing and Economic Development Committee (HED) has received a report authorized pursuant to resolve 2023, ch.171 to advise it about various aspects of Right to Repair.

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwis77Wd1JGNAXW5GlkFHfIgH-0QFnoECBcQAQ&url=https%3A%2F%2Fwww.legislature.maine.gov%2Fdoc%2F11596&usg=AOvVaw29lSId8edWeD7ochlOBV7a&opi=89978449>

Central among those issues are consumer privacy protections, safety protections, and cyber security. The HED Committee is reviewing several bills, which include LDs 292, An Act to Implement the Automotive Right to Repair Working Group Recommendations, 442, An Act to Amend the Automotive Repair Statute, 1227, An Act to Repeal the Requirements That Motor Vehicle Manufacturers Equip Vehicles with a Standardized Data Access Platform, 1228, An Act to Clarify Certain Terms in the Automotive Right to Repair Laws, 1394, An Act to Support Maine's Electric Vehicle Adoption Goals by Providing an Exclusion for Electric Vehicles from Certain Requirements of the Right to Repair Law, 1467, An Act to Ensure Accountability for Repairs Conducted by Independent Repair Facilities on Motor Vehicles Under Warranty, and 1468, An Act to Establish Standards for Independent Motor Vehicle Repair Facilities in Maine. In short, the HED Committee is working on its own set of privacy and cyber security rules and obligations, which will apply to dealers, to protect consumers in the context of the repair of motor vehicles and access to privacy protected information which are part of a telematic system.

Given the broad nature of auto dealer obligations arising out of disclosures, consumer privacy, protected consumer and cyber security data under several federal and Maine laws, it is appropriate to exempt the Maine automobile dealers from the provisions of the bills under consideration by the Committee. Adding additional obligations can only create confusion, notification requirements and obligations that may be inconsistent and will not further the goals of the various bills before the Committee.

Respectfully submitted,

Bruce C. Gerrity

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