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Testimony of Rep. Adam Lee presenting

LD 194, An Act to Improve the Maine Unfair Trade Practices Act *Before the Joint Standing Committee on Judiciary*

Senator Carney, Representative Kuhn and distinguished members of the Joint Standing Committee on Judiciary, I am Adam Lee, and I represent House District 89 which is Downtown Auburn and New Auburn. I'm here to introduce **LD 194, An Act to Improve the Maine Unfair Trade Practices Act**.

Maine's Unfair Trade Practices Act (UTPA) limits standing to only those individuals who have directly purchased or leased goods, services or property, real or personal, primarily for personal, family or household purposes. One need not think too hard to come up with examples of individuals and businesses who have been harmed by unfair or deceptive trade practice but who haven't purchased or leased something for family or household purposes. Think of a subcontractor who has expended substantial time, labor and money on a project only to be harmed by the deceptive acts of a general contractor. Think of someone who is badly harmed after consuming a toxic product that was marketed as a health product, who consumed that product but who themselves was not the individual who purchased that product. What about a Maine potato farmer who purchases deceptively sold potato seed from out of state and ends up being infected with black leg and destroying \$500k of the crop?

Each of these is an example of a Maine individual or Maine business that has undergone substantial harm by a deceptive or unfair trade practice. In each example, the harmed individual or business would have absolutely no remedy under our Unfair Trade Practices Act. This bill attempts to utilize the UTPA, which provides attorneys' fees and other remedial benefits, but is tempered and moderated by a business-friendly right to cure, as an effective and useful deterrent to unfair and deceptive business practices. I genuinely believe we are a state that believes in honest and fair business practices. A state that believes that small businesses deserve to operate in a fair market in which they aren't manipulated.

A final appeal for your support, we may not have landed on a bipartisan solution to data privacy issues last session, but I genuinely believe the desire to hold large tech companies responsible for their business practices is necessary. I think we also landed on the UTPA as the mechanism to enforce that bipartisan agreement to hold big tech responsible. Ask yourself this: when our children use Facebook, Instagram, Google, TikTok, etc., are they purchasing anything? Are they

directly purchasing anything? Are they directly leasing anything? The saying goes, “if you’re not paying anything, you’re not the consumer, you’re the product.” That you aren’t buying anything doesn’t mean you aren’t harmed by the deceptive or unfair trade practice. Oftentimes, it means you are the one who may be most harmed. My friends on the other side of the aisle and the vast majority of the tech businesses who came before us lauded the Connecticut version of data privacy. Well, here’s the thing - this bill, this amendment, is the Connecticut version of the Unfair Trade Practices Act. To be clear, I want a more robust version of data privacy protection than Connecticut has. But if we end up with Connecticut’s data privacy law, can we at least get their version of the Unfair Trade Practices Act?

Thank you for your time. I would be happy to answer any questions you may have.