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May 12, 2025

Senator Chip Curry, Chair
Representative Traci Gere, Chair
Members of the Housing and Economic Development Committee

RE: Testimony in Opposition to Regarding LD 1894, An Act to Address Consumer Grocery Pricing Fairness

Dear Senator Curry, Representative Gere and members of the Housing and Economic Development Committee:

My name is Curtis Picard, and I serve as the President and CEO of the Retail Association of Maine. Our association represents retailers of all sizes from small, independent retailers, to a number of well-known Maine retail brands, and including a number of larger, multi-state retailers. Maine's retailers employ more than 80,000 Mainers, and our industry is one of the largest private sector employers in Maine. We are testifying in opposition to LD 1894.

While the stated goal of LD 1894 is to prevent unfair pricing and ensure equitable access to products for smaller food retailers, the bill as currently drafted would have a number of unintended negative consequences—including increased costs for consumers, disruption of legitimate supply chain practices, and the introduction of legal and operational uncertainty for suppliers and retailers alike.

This bill is similar to last session's LD 1815, An Act to Protect Maine's Consumers by Establishing an Abuse of Dominance Right of Actions and Requiring Notification of Mergers. Veteran committee members may recall that LD 1815 was passed, but only with the first section of the bill that dealt with mergers. The section on state level anti-trust was stripped out of the final bill. LD 1894 seems to be similar to that section of the bill, and we understand that this is proposed language from a national DC-based interest group¹ trying to find a state to be first to pass it. Similar legislation has been introduced in Minnesota and Rhode Island, and neither state has enacted it thus far.

¹ <https://ilsr.org/articles/state-antitrust-law-database-and-map/>

Simply, LD 1894 goes beyond federal antitrust law. Federal antitrust laws, including the Robinson-Patman Act, already address price discrimination that harms competition. These laws are enforced by the Federal Trade Commission and require evidence that pricing behavior has harmed the competitive process—through higher prices, lower output or innovation, or degraded product quality.

LD 1894, by contrast, would prohibit entirely lawful and pro-consumer practices—such as volume-based discounts and negotiated supply contracts—that allow retailers to pass savings on to Maine families. Restricting such practices would ultimately make it harder for retailers to offer competitive prices, raising costs for Maine consumers at a time when affordability is critical.

Retailers of different sizes operate with different logistics, infrastructure, and purchasing models. LD 1894 would limit the ability of suppliers to work flexibly with different types of retail customers and would discourage the use of efficiencies that help lower prices across the supply chain. Additionally, we do not know how this bill would impact a unique business model like Marden's who brings in goods from across the country with unique pricing agreements.

Importantly, smaller retailers themselves sometimes benefit from negotiated terms, localized supply chains, or promotional deals. This bill could strip them of that flexibility in the name of uniformity—potentially harming the very businesses it seeks to support.

We have concerns with the bill's vague or overly broad definitions:

- "Dominant covered retailer" includes entities with just one physical store or distribution center in the state, regardless of whether they sell to consumers directly. This could pull in businesses not engaged in retail sales in Maine and penalize size rather than behavior.
- Section 3 could be interpreted to mean that simply purchasing more of a product—because of higher consumer demand—is an unfair practice if it results in reduced availability elsewhere. This could penalize success, not anticompetitive behavior.
- Exclusivity agreements are not inherently anticompetitive. For example, a large retailer may have an exclusive on one brand of tomato seeds, but there are numerous other brands available in the market. The bill does not account for overall availability within a general product category, which undermines its stated intent.

If LD 1894 is enacted, suppliers will face increased compliance burdens and legal exposure. Rather than absorbing those costs, most will pass them on to retailers, who in turn will pass them on to shoppers. This bill will raise grocery prices at a time when Mainers are already struggling with inflation.

Similar legislation introduced in Minnesota and Rhode Island failed to pass in 2025 after significant stakeholder pushback. In both cases, bipartisan concern emerged around the potential for higher consumer prices, legal conflicts with federal law, and unclear enforcement provisions.

LD 1894 is well-intentioned but flawed. We respectfully urge the Committee to reconsider this approach and instead focus on solutions that support all Maine retailers without increasing costs to consumers or disrupting long-standing, pro-competitive practices in the supply chain. Retailers have told us that cost drivers like the cost of electricity, health insurance, swipe fees and the increasing cost of labor are more important areas to focus effort instead of state-level antitrust legislation.

We urge the committee to oppose LD 1891. Maine should not be the petri dish for novel legislation that has not been enacted elsewhere.

Thank you for your time and consideration.

Sincerely,

Curtis Picard, CAE
President and CEO