Testimony of Ashley Luszczki
Committee on Health Coverage, Insurance, and Financial Services
LD 2162, An Act to Regulate and Prevent Children's Access to Artificial Intelligence Chatbots with Human-like Features and Social Artificial Intelligence Companions
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Senator Bailey, Representative Mathieson, and members of the Health Coverage, Insurance, and Financial Services Committee, my name is Ashley Luszczki and I am testifying on behalf of the Maine State Chamber of Commerce, the state's largest business association. The Chamber supports innovation, economic competitiveness, and a predictable regulatory environment where businesses can thrive.

The goal of protecting young people in an increasingly digital world is shared by parents, policymakers, and the business community alike. Maine businesses depend on consumer trust and when young people are harmed online, it erodes confidence in the innovative digital tools that individuals, families, and employers rely on every day. We believe thoughtful and targeted safeguards can exist alongside innovation and economic opportunity. Unfortunately, this legislation raises significant operational, privacy, enforcement, and definitional concerns. For these reasons, the Maine State Chamber respectfully opposes LD 2162.

From an operational perspective, the bill simply casts too wide a net. The bill's especial emphasis on "human-like features" of chatbots is as broad as it is vague, creating uncertainty and legal risk for businesses utilizing AI technology like chatbots or AI assistants in their products and services. There is a great deal of difference between a customer service chatbot that uses some "human-like" social platitudes and one designed to maintain an ongoing relationship with users affirmatively attempting to form a social connection with them. To avoid unnecessary legal exposure, many businesses would be forced to age-gate numerous customer service chatbots, productivity tools, and AI assistants. And if the cost of verifying ages of users is too great, those businesses must reconsider offering the tool at all.

To address the bill's obligations should be limited to "AI companion" chatbots, which are specifically designed to create the kinds of interactions and attachments this bill seeks to address. New York has recently enacted similar legislation with clear definitions and scope that give businesses certainty about which chatbots are covered by the law:

> "AI companion" means a system using artificial intelligence, generative artificial intelligence, and/or emotional recognition algorithms designed to simulate a sustained human or human-like relationship with a user by:

(i) retaining information on prior interactions or user sessions and user preferences to personalize the interaction and facilitate ongoing engagement with the AI companion;

(ii) asking unprompted or unsolicited emotion-based questions that go beyond a direct response to a user prompt; and

(iii) sustaining an ongoing dialogue concerning matters personal to the user.

But as drafted, LD 2162 would require many businesses to treat chatbots as far more harmful than they actually are. And by requiring developers to create distinct chatbot systems for minors versus adults, it would introduce significant technical and financial burdens, without any corresponding benefit to children. It could require separate model configurations, different training parameters, and ongoing age verification and re-verification processes. For many companies, particularly smaller developers, this level of segmentation may not be technically or economically feasible.

The age verification requirement presents another concern. Section 1500-SS, Subsection 2, limits the information a deployer may collect to what is necessary for a legitimate purpose. At the same time, meaningful age verification typically requires government-issued identification that contains sensitive information. The Legislature has spent the last few years discussing data privacy and how to protect both personal and sensitive information. Broadly speaking, the Chamber supports minimizing the collection and storage of minors' sensitive data. However, this bill moves in the opposite direction by requiring companies to collect and store identifying information to determine age. Unfortunately, privacy breaches are not uncommon and creating new databases of identification information for individuals under 18 years of age may inadvertently increase harm rather than reduce it. Real-world risks such as greater exposure to data breaches and heightened risk of identity theft involving minors are not out of question.

LD 2162's private right of action further exacerbates the ambiguity created by the unclear definitions in the bill. The private right of action introduces significant legal uncertainty in an already rapidly evolving regulatory environment. The Chamber has consistently opposed private rights of action in regulatory statutes because they encourage litigation over clarity and increase compliance. In LD 2162, many small businesses would be forced to bear the cost of litigation simply to attempt to prove that their chatbots did not meet the vague definition of "human-like features". We believe enforcement should rest with the Attorney General to ensure consistency and balanced oversight.

For these reasons, the Maine State Chamber of Commerce respectfully urges you to oppose LD 2162.