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February 27, 2025

The Honorable Chip Curry, Senate Chair  
The Honorable Traci Gere, House Chair  
Joint Standing Committee on Housing and Economic Development  
100 State House Station  
Augusta, ME 04333

RE: LD 414, *An Act to Prohibit Deceptive Pricing*

Dear Senator Curry and Representative Gere:

I am writing regarding LD 414, *An Act to Prohibit Deceptive Pricing*, which would amend Maine's Unfair Trade Practices Act, 5 M.R.S.A. §§ 205-A – 214 (the "UTPA"). I generally support Section 1 of the bill but offer some suggestions for strengthening it. I oppose Section 2.

### Section 1

Section 1 of the bill would prohibit deceptive pricing by making it a violation of the UTPA to advertise, display, or offer a price that does not "include all mandatory fees or charges," excepting taxes or fees "imposed by a government," and "postage and carrier charges that are reasonable and actually incurred." This would advance pricing transparency, which my office supports. We recommend, though, that "mandatory fees or charges," be defined, perhaps as Minnesota did in its deceptive pricing statute. Minn. Stat. Ann. § 325D.44(1a)(b). We also recommend that the bill clarify whether a business is in compliance so long as the total price it advertises or displays includes all mandatory fees and charges, or whether the business must itemize each fee and charge.

Finally, we recommend that the deceptive pricing prohibition not be incorporated within the UTPA. Maine's UTPA does not enumerate specific unlawful transactions or acts. Instead, prohibitions against certain conduct are codified in the relevant Title of the Maine Revised Statutes and establish UTPA violations by reference to 5 M.R.S.A. § 207. *See, e.g.*, 14 M.R.S.A. § 6030(1)

(establishing a UTPA violation by reference for violations of renters' statutory rights by a landlord). Unless the legislature intends to begin enumerating specific unfair and deceptive acts in Maine's UTPA itself (which my office does not endorse), LD 414 would be better placed in another Title of the Maine Revised Statutes.

Section 2

Section 2 of LD 414 amends 5 M.R.S.A. § 209 to replace "civil penalty" with "fine." My office does not support this change. It is inconsistent with section 212 of the UTPA, which references "civil penalties," as well as with unfair trade practice laws generally. To our knowledge, nearly all state unfair trade practice laws refer to civil penalties, not fines, and we see no need to make Maine's law an outlier, particularly where there is no obvious purpose for the change.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Aaron M. Frey". The signature is written in a cursive, slightly slanted style.

Aaron M. Frey  
Attorney General