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To: Sen. Anne Carney and Rep. Amy Kuhn, co-chairs
Members, Committee on Judiciary

From: David R. Clough, State Director in Maine

Re: LD 1224 – Comprehensively Protect Consumer Privacy
LD 1822 – Enact the Maine Online Data Privacy Act
LD 1088 – Enact the Maine Consumer Data Privacy Act

This statement is on behalf of the thousands of small business owners in Maine who are members of the National Federation of Independent Business. Member small businesses collectively span a wide range of economic activities; provide jobs and paychecks to about 30,000 people; and help form the economic backbone of hundreds of communities and the State. The average member has fewer than 10 employees and less than \$500,000 annual gross revenues.

NFIB members are concerned about the compromise of private information as Maine consumers who want their personal information protected. However, we do have concerns about the potential for regulatory overreach that could disproportionately impact affected small businesses, and we are concerned about the potential for small businesses caught up in private right of action lawsuits.

Applicability Scope Concerns – The applicable scope of a data privacy law will directly affect how many small businesses may become subject to the significant new law and its many compliance requirements.

	Applicability	Control or process “personal data”	Control or process “personal data”
LD 1088	Jan 1, 2028 –	at least 50,000 consumers; or	at least 25,000 consumers and derive over 25% of gross revenue from the sale of “personal data”
LD 1224	Jul 1, 2026 – Dec 31, 2027	at least 100,000 consumers; or	at least 25,000 consumers and derive over 25% of gross revenue from the sale of “personal data”
LD 1224	Jan 1, 2028 –	at least 50,000 consumers; or	at least 25,000 consumers and derive over 25% of gross revenue from the sale of “personal data”
LD 1822	Jul 1, 2026 –	at least 35,000 consumers; or	at least 10,000 consumers and derive over 20% of gross revenue from the sale of “personal data”

LD 1224 and LD 1088 start off at different points but propose identical thresholds as of January 1, 2088. The starting point of LD 1224 is preferred. Not preferred is LD 1822, which has the widest scope thus would impact many more small businesses.

No Private Right of Action – The bills as proposed do not permit private lawsuits by consumers. LD 1224 and LD 1088 contain a separate enforcement subsection to make this clear, which is preferred over the approach taken in LD 1822. In LD 1822 the enforcement language is less obviously emphatic on the private right of action matter, stating that the Attorney General has the exclusive authority to enforce violations of the proposed privacy chapter in the Maine Unfair Trade Practices Act.

Facilitate Compliance – Small businesses have limited staffing and access to legal resources. Making a Maine data privacy law mirror those of other states New England states, for example, facilitates comprehension and compliance.

We wish to align generally with other Maine business groups in urging your support of LD 1088 and LD 1224. We believe LD 1822 goes to far and could have the most adverse impact on affected small entities.

Thank you for being mindful of Maine small business owners and all who depend on their success. Small businesses are essential in Maine.

***If a new privacy law does not work for thousands of
Maine small businesses, it will not work for Maine!***