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Testimony in Support of LD 1224 An Act to Comprehensively Protect Consumer Privacy and in Opposition to LD 1822 An Act to Enact the Maine Online Privacy Act.

Joint Standing Committee on Judiciary

May 5, 2025

Senator Carney, Representatives Kuhn and members of the Judiciary Committee,

My name is Quincy Hentzel and I serve as the President and CEO of the Portland Regional Chamber of Commerce. We represent nearly 1,400 businesses in our region, collectively employing more than 75,000 Mainers. I am here today to express **our strong support for data privacy legislation which aligns with New England's privacy framework** providing consumers with the same privacy protections as those in neighboring states while allowing our small business community to provide similar access to goods and serves as their out of state competition.

More than 90% of our members are small businesses - retailers, exporters, professional services, and hospitality and tourism enterprises. Our primary mission is to ensure we have an environment in our region and across the state where businesses can grow and thrive and where we can build strong and vibrant communities where people want to live and work. Our members have trusted us to stand for a culture of growth that strengthens what is unique and essential to our communities and the quality of life and place they afford.

The Portland Regional Chamber evaluates privacy legislation by applying the following principles:

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- Small businesses must continue to have access to the digital advertising tools that allow them to compete. Small businesses are the customers of digital marketplaces, advertisers and social media platforms. If those services become excessively expensive or prohibited, small businesses will suffer.
 - Maine cannot be allowed to become a digital outlier; we are highly integrated into the regional and national economy. We sell to and compete with our neighboring states every day. Novel and untested privacy policies should be avoided.
 - Consumer rights grounded in choice, transparency and clarity for all parties to the ecosystem is paramount.

Effective data privacy legislation must strike the appropriate balance for meaningful protections while preserving benefits consumers receive and the ability for businesses to innovate and thrive. LD 1224 strikes that balance and ensures that Maine businesses will be able to follow consistent privacy rules across state lines and adopted in 19 states, including our neighbors such as New Hampshire, Connecticut and Rhode Island. LD 1822, alternatively, creates a unique privacy framework which will require businesses to develop a separate compliance program just for Maine, should they decide to continue to market in Maine. The consumer data privacy debate is often dominated by talk of giant internet companies and their practices around data collection. Lost in this conversation is the critical and indispensable role that the data economy, digital advertising and online marketing plays in the success of our small businesses. These services are sold to small businesses by the very entities all data privacy laws seek to cover.

Maine is largely made up of small businesses which are the backbone of our economy. According to the most recent Small Business Administration data, Maine's

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employment grew by nearly 9,800 in 2023 with 85% of that growth created by small businesses. Maine also has a flourishing creator economy that is hugely important to the vitality of our communities and Maine's brand. Thousands of small businesses are engaged in the creation and promotion of unique products every day, these are both home based businesses without a formal retail space and traditional retailers augmenting their in-store with online sales. Over half of Amazon's sales are sales by third party sellers who use Amazon's marketplace and services to promote their products and connect with customers. Other online marketplaces such as Etsy, Rakuten and Ebay feature small business third party sellers almost exclusively on their platforms. There is simply no alternative to the various online marketplaces now serving the hundreds of small businesses. Tools like targeted advertising, geotargeting, search optimization, customer relationship management, social media and e-mail marketing automation are virtually the only cost-effective way to reach customers in today's economy. Therefore we must ensure these tools remain viable options for our business and creator community to thrive.

LD 1224 is consistent with our Chamber's core principles for data privacy and builds on a proven framework adopted in 19 other states. It provides real consumer rights and includes enforceable obligations that are well understood by both regulators and the business community. Consumers will be better protected through enhanced transparency and robust enforcement safeguards when laws are consistently applied across state lines. On the contrary, LD 1822 attempts to replicate a new and unproven approach, currently only adopted in Maryland, which has yet to take effect. We are very concerned that the data minimization standard, the more expansive definition of "Sensitive Personal Information" as well as its associated processing requirements and new third party and data retention notice requirements will have far reaching negative impacts on the services small businesses depend on.

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No small business is exempt from the impact LD 1822. If the tools and services they depend on are unavailable or become too expensive, this will surely have a devastating impact on our small businesses who are working hard to grow their business and attract new customers. Digital marketing is critical for the success of small businesses – it offers a cost-effective way to reach a large, targeted audience, build brand awareness and compete with larger companies and allows businesses to engage directly with customers. LD 1224 represents a proven model which delivers real consumer rights and imposes real obligations on businesses holding and using data. **LD 1822 mirrors a model which has only been adopted by one state, has not gone into effect and for which there is no accepted and understood compliance regime.**

Finally, we support the intent of LD 1284, repealing the law governing data privacy for broadband internet providers, assuming those providers will be covered by a new, more comprehensive, privacy law. Regardless of the final form of the Committee's approach to data privacy, it is of paramount importance that the laws are clear, comprehensive, and not duplicative of existing privacy laws already in statute. That is why we suggest that the language in LD 1284 repealing 35-A MRSA c. 94 be incorporated into a comprehensive data privacy bill like LD 1224.

These are challenging times for our small businesses. We know that Maine is uniquely exposed to the risks of tariffs, political tension with our neighbors to the north threatening tourism, and a slowing domestic economy. The last thing our small businesses need is a data privacy law which disrupts or increases the cost of the very tools they depend on to reach customers and market their products and services.

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We urge you to support LD 1224 which enacts a balanced data privacy law, providing strong consumer protections while aligning with a regional framework, and maintaining access to the critical digital marketing tools businesses rely on in a global marketplace.

Thank you for your time and consideration.