MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)



1	L.D. 1822		
2	Date: 6/13/25 (Filing No. H-716)		
3	JUDICIARY		
4	Reproduced and distributed under the direction of the Clerk of the House.		
5	STATE OF MAINE		
6	HOUSE OF REPRESENTATIVES		
7	132ND LEGISLATURE		
8	FIRST SPECIAL SESSION		
9 10	COMMITTEE AMENDMENT "A" to H.P. 1220, L.D. 1822, "An Act to Enact the Maine Online Data Privacy Act"		
11 12 13	Amend the bill in section 1 in c. 1057 in §9601 in the first indented paragraph in the first line (page 1, line 6 in L.D.) by striking out the following: "Data Privacy and Protection" and inserting the following: 'Online Data Privacy'		
14 15 16	Amend the bill in section 1 in c. 1057 in §9602 in subsection 7 in paragraph A in the 2nd line (page 2, line 2 in L.D.) by inserting after the following: "the" the following: 'collection or'		
17 18 19	Amend the bill in section 1 in c. 1057 in §9602 in subsection 7 in paragraph B in subparagraph (1) in the 2nd line (page 2, line 7 in L.D.) by inserting after the following: "data" the following: 'collection or'		
20 21	Amend the bill in section 1 in c. 1057 in §9602 in subsection 11 in the last line (page 2, line 30 in L.D.) by inserting after the following: "of" the following: 'collecting or'		
22 23	Amend the bill in section 1 in c. 1057 in §9602 by striking out all of subsection 14 (page 2, lines 36 to 41 and page 3, lines 1 to 4 in L.D.) and inserting the following:		
24 25 26 27	'14. De-identified data. "De-identified data" means data that does not identify, cannot reasonably be used to infer information about and cannot otherwise be linked to an identified or identifiable consumer, or a device that may be linked to an identified or identifiable consumer, if the controller that possesses the data:		
28 29	A. Takes reasonable measures to ensure that the de-identified data cannot be linked with a consumer;		
30 31	B. Commits in a publicly available terms and conditions document or in a publicly available privacy policy to maintain and use the data in its de-identified format; and		
32 33	C. Contractually obligates recipients of the data to satisfy the criteria and commitments in paragraphs A and B.'		

Page 1 - 132LR0014(02)



34

35

36 37

38 39

COMMITTEE AMENDMENT " to H.P. 1220, L.D. 1822

	COIVINITITE AIVIENDIVIENT 10 H.F. 1220, L.D. 1822
1 2 3	Amend the bill in section 1 in c. 1057 in §9602 in subsection 26 in paragraph A in the 2nd line (page 4, line 10 in L.D.) by striking out the following: "specific location of a Consumer" and inserting the following: 'past or present specific location of a consumer'
4 5 6	Amend the bill in section 1 in c. 1057 in §9602 in subsection 27 in the last line (page 4, line 18 in L.D.) by inserting after the following: "data" the following: 'but not including the collection of personal data'
7 8	Amend the bill in section 1 in c. 1057 in §9602 by striking out all of subsection 31 (page 4, lines 27 to 39 and page 5, lines 1 to 7 in L.D.) and inserting the following:
9	'31. Publicly available information. "Publicly available information":
10	A. Means information about a consumer that a person:
11	(1) Lawfully obtains from a record of a governmental entity; or
12 13	(2) Reasonably believes has been lawfully made available to the general public by the consumer or by widely distributed media; and
14	B. Does not include:
15 16	(1) Any obscene visual depiction as described in 18 United States Code, Section 1460;
17	(2) Biometric data;
18 19	(3) Genetic data, unless the genetic data has been made available to the general public by the consumer;
20 21 22	(4) Any information that is collated or combined to create a consumer profile that is made available to a user of a publicly available Internet website or mobile application either for remuneration or free of charge;
23	(5) Any information that is made available for sale;
24 25 26	(6) Inferences derived from information described in subparagraph (4) or (5) or inferences derived from a combination of publicly available information and other personal data; or
27 28 29 30 31	(7) Intimate images a controller or processor knows have been created or shared without consent of the consumer depicted in the images. For purposes of this subparagraph, "intimate image" means a photograph, videotape, film or digital recording of a consumer in a state of nudity or engaged in a sexual act or engaged in sexual contact for which there is no public or newsworthy purpose.'
32	Amend the bill in section 1 in c. 1057 in §9602 in subsection 33 in paragraph B in

Amend the bill in section 1 in c. 1057 in §9602 in subsection 33 in paragraph B in subparagraph (4) in the last line (page 5, line 22 in L.D.) by inserting after the following: "party:" the following: 'or'

Amend the bill in section 1 in c. 1057 in §9602 in subsection 33 in paragraph B in subparagraph (5) in division (b) in the first line (page 5, line 25 in L.D.) by striking out the following: "audience; or" and inserting the following: 'audience.'

Amend the bill in section 1 in c. 1057 in §9602 in subsection 33 in paragraph B by striking out all of subparagraph (6) (page 5, lines 26 to 28 in L.D.).

	COMMITTEE AMENDMENT "A" to H.P. 1220, L.D. 1822
ROS. 1	Amend the bill in section 1 in c. 1057 in §9602 in subsection 34 by striking out all of paragraph F (page 5, lines 38 and 39 in L.D.) and inserting the following:
3 4 5	'F. Account numbers, credit card numbers or debit card numbers, if circumstances exist wherein such numbers can be used without additional identifying information, access codes or passwords;'
6 7 8	Amend the bill in section 1 in c. 1057 in §9602 in subsection 37 in paragraph B in subparagraph (4) in the first line (page 6, line 21 in L.D.) by striking out the following: "Processing" and inserting the following: 'Collecting or processing'
9 10 11	Amend the bill in section 1 in c. 1057 in §9603 in subsection 1 in the first line (page 6, line 28 in L.D.) by striking out the following: "July" and inserting the following: 'September'
12 13 14	Amend the bill in section 1 in c. 1057 in §9604 in subsection 2 in paragraph O in the first line (page 8, line 26 in L.D.) by inserting after the following: "Data" the following: 'collected,'
15 16	Amend the bill in section 1 in c. 1057 in §9604 in subsection 2 in paragraph O in subparagraph (3) in the last line (page 8, line 34 in L.D.) by striking out the following: "or"
17 18 19	Amend the bill in section 1 in c. 1057 in §9604 in subsection 2 in paragraph P in the last line (page 8, line 39 in L.D.) by striking out the following: "41713." and inserting the following: '41713; or'
20 21	Amend the bill in section 1 in c. 1057 in §9604 in subsection 2 by inserting after paragraph P the following:
22 23	'Q. Personal data collected and used pursuant to the federal Controlled Substances Act, 21 United States Code, Section 830.'
24 25	Amend the bill in section 1 in c. 1057 in §9606 by striking out all of subsection 1 (page 9, lines 19 to 39 in L.D.) and inserting the following:
26	1. Consumer rights. A consumer has the right to:
27 28	A. Confirm whether a controller is collecting or processing the consumer's personal data;
29 30	B. If a controller collects or processes a consumer's personal data, access the consumer's personal data;
31 32	C. Correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;
33 34	D. Require a controller to delete personal data provided by, or obtained about, the consumer unless retention of the personal data is required by law;
35 36	E. When processing of personal data is done by automatic means, obtain a copy of the consumer's personal data collected and processed by the controller in a portable and,

38

39

40

F. Obtain a list of the 3rd parties to which the controller has sold the consumer's personal data or, if the controller does not maintain information about the 3rd parties

to the extent technically feasible, readily usable format that allows the consumer to

transmit the data to another controller easily and without hindrance;

_{RO} S.	COMMITTEE AMENDMENT "A" to H.P. 1220, L.D. 1822
1 2	to which the controller has sold the personal data of the specific consumer, obtain a list of the 3rd parties to which the controller has sold any consumer's personal data; and
3 4	G. Opt out of the collection and processing of the consumer's personal data for purposes of:
5	(1) Targeted advertising;
6	(2) The sale of personal data; or
7 8	(3) Profiling in furtherance of any automated decision that produces any legal or similarly significant effect concerning the consumer.
9 10	Amend the bill in section 1 in c. 1057 in §9606 by striking out all of subsection 3 (page 10, lines 3 to 8 in L.D.) and inserting the following:
11 12	'3. Exercise of consumer rights. This subsection governs the exercise of the consumer rights established in subsection 1.
13 14	A. A controller shall establish a secure and reliable method pursuant to section 9608, subsection 6 for a consumer to exercise a consumer right under this section.
15 16 17	B. A consumer may exercise a consumer right under this section, including through another individual who has authority under subsection 4 to exercise the consumer's rights, using the method established by the controller under paragraph A.'
18 19 20	Amend the bill in section 1 in c. 1057 in §9606 in subsection 4 in paragraph A in the 2nd line (page 10, line 12 in L.D.) by inserting after the following: "the" the following: 'collection and'
21 22	Amend the bill in section 1 in c. 1057 by striking out all of §9607 (page 11, lines 34 to 42 and page 12, lines 1 to 6 in L.D.) and inserting the following:
23	'§9607. Authorized agent
24 25 26 27	1. Authority to designate agent to opt out of collection and processing. A consumer may designate another person to serve as the consumer's authorized agent, and act on the consumer's behalf, to exercise the consumer's right under section 9606, subsection 1, paragraph G to opt out of the collection and processing of personal data.
28 29 30 31 32	2. Method of designating agent. The consumer may designate an authorized agent by way of, among other methods, a technology, including, but not limited to, an Internet link or a browser setting, browser extension or global device setting, indicating the consumer's intent to exercise the consumer's right under section 9606, subsection 1, paragraph G to opt out of the collection and processing of personal data.
33 34 35 36	3. Authentication of agent's opt-out request. A controller shall comply with a request received from an authorized agent to exercise the consumer's right under section 9606, subsection 1, paragraph G to opt out of the collection and processing of personal data if, using commercially reasonable efforts, the controller is able to authenticate:
37	A. The identity of the consumer; and
38	B. The authorized agent's authority to act on the consumer's behalf.'

Page 4 - 132LR0014(02)

Amend the bill in section 1 in c. 1057 in §9608 in subsection 1 in paragraph C in the first line (page 12, line 13 in L.D.) by striking out the following: "Process" and inserting

39

40

41

the following: 'Collect or process'

COMMITTEE AMENDMENT " A" to H.P. 1220, L.D. 1822

Amend the bill in section 1 in c. 1057 in §9608 in subsection 1 in paragraph D in subparagraph (1) in the first line (page 12, line 16 in L.D.) by striking out the following: "Process" and inserting the following: 'Collect or process'

Amend the bill in section 1 in c. 1057 in §9608 in subsection 2 in paragraph A in the last line (page 12, line 38 in L.D.) by inserting after the following: "pertains" the following: 'nicluding any routine administrative, operational, website or account-servicing activity that is consistent with the reasonable expectations of the consumer under the circumstances. This paragraph does not prevent a controller from processing personal data collected in accordance with this paragraph to provide advertising to a consumer based on the consumer's activities within the controller's own websites or online applications'

Amend the bill in section 1 in c. 1057 in §9608 in subsection 4 in paragraph A in the first line (page 13, line 25 in L.D.) by inserting after the following: "sensitive data," the following: 'collected or'

Amend the bill in section 1 in c. 1057 in §9608 in subsection 4 in paragraph B in the first line (page 13, line 27 in L.D.) by inserting after the following: "for" the following: 'collecting and'

Amend the bill in section 1 in c. 1057 in §9608 by striking out all of subsection 5 (page 13, lines 41 and 42 and page 14, lines 1 to 7 in L.D.) and inserting the following:

'5. Notice of sale of personal data, targeted advertising or profiling; opt-out mechanism. If a controller sells personal data to 3rd parties, collects or processes personal data for the purposes of targeted advertising or processes personal data for the purposes of profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, the controller shall clearly and conspicuously disclose the sale, collection or processing, as well as the manner in which a consumer may exercise the right to opt out of the sale, collection or processing. The disclosure required under this subsection must be prominently displayed on the controller's publicly accessible website and the language used must be clear, easy to understand and unambiguous.'

Amend the bill in section 1 in c. 1057 in §9608 in subsection 6 by striking out all of paragraph C (page 14, lines 21 to 41 and page 15, lines 1 to 8 in L.D.) and inserting the following:

- 'C. A controller may satisfy the controller's obligation under this subsection to establish a secure and reliable mechanism for a consumer to exercise the right to opt out under subsection 5 by:
 - (1) Providing a clear and conspicuous link on the controller's publicly accessible website to a webpage that allows a consumer, an authorized agent of the consumer or a person authorized by section 9606, subsection 4 to exercise the consumer's rights to opt out of any collection or processing of the consumer's personal data for the purposes of targeted advertising or profiling or any sale of personal data; and
 - (2) No later than September 1, 2026, allowing a consumer to opt out of any collection or processing of the consumer's personal data for the purposes of targeted advertising or any sale of personal data through an opt-out preference signal sent, with the consumer's consent, by a platform, technology or mechanism to the controller indicating the consumer's intent to opt out of the collection,

Page 5 - 132LR0014(02)



COMMITTEE AMENDMENT " A" to H.P. 1220, L.D. 1822

2	technology or mechanism:
3	(a) Must be consumer-friendly and easy to use by the average consumer;
4	(b) Must use clear, easy to understand and unambiguous language;
5 6	(c) Must be as consistent as possible with any other similar platform, technology or mechanism required by federal or state law, rule or regulation;
7 8 9 10 11	(d) Must enable the controller to reasonably determine whether the consumer is a resident of the State, which reasonable determination may be based on the location associated with the consumer's Internet protocol address, and whether the consumer has made a legitimate request to opt out of any such collection, processing or sale of the consumer's personal data;
12	(e) May not unfairly disadvantage another controller; and
13 14 15	(f) May not make use of a default setting but must require the consumer to make an affirmative, freely given and unambiguous choice to opt out of any such collection, processing or sale of the consumer's personal data.
16 17	A controller that recognizes an opt-out preference signal that has been approved by the laws of another state is considered to be in compliance with this paragraph.'
18 19 20	Amend the bill in section 1 in c. 1057 in §9608 in subsection 6 in paragraph D in the first line (page 15, line 9 in L.D.) by inserting after the following: "any" the following: 'collection or'
21 22 23 24	Amend the bill in section 1 in c. 1057 in §9609 in subsection 1 in paragraph B in subparagraph (6) in the first line (page 16, line 4 in L.D.) by striking out the following: "After providing the controller an opportunity to object, engage a" and inserting the following: 'Engage any'
25 26 27	Amend the bill in section 1 in c. 1057 in §9609 in subsection 2 in paragraph C in the last line (page 16, line 31 in L.D.) by striking out the following: "9611" and inserting the following: '9610'
28 29 30	Amend the bill in section 1 in c. 1057 in §9609 in subsection 4 in paragraph C in the last line (page 17, line 8 in L.D.) by striking out the following: "9614" and inserting the following: '9613'
31 32	Amend the bill in section 1 in c. 1057 by striking out all of §9610 (page 17, lines 12 to 20 in L.D.).
33 34 35	Amend the bill in section 1 in c. 1057 in §9611 in subsection 1 in paragraph A in the first line (page 17, line 24 in L.D.) by inserting after the following: "The" the following: 'collection or'
36 37 38	Amend the bill in section 1 in c. 1057 in §9611 in subsection 1 in paragraph C in the first line (page 17, line 26 in L.D.) by inserting after the following: "The" the following: 'collection or'
39 40	Amend the bill in section 1 in c. 1057 in §9611 by striking out all of subsection 2 (page 17, lines 36 to 40 in L.D.) and inserting the following:

Page 6 - 132LR0014(02)

following: ';'

COMMITTEE AMENDMENT "A" to H.P. 1220, L.D. 1822

1 2 3	Amend the bill in section 1 in c. 1057 in §9613 in subsection 1 in paragraph K in the last line (page 20, line 9 in L.D.) by striking out the following: "." and inserting the following: ': or'
4 5	Amend the bill in section 1 in c. 1057 in §9613 in subsection 1 by inserting after paragraph K the following:
6 7 8 9	'L. Transfer assets to a 3rd party in the context of a merger, acquisition, bankruptcy or similar transaction when the 3rd party assumes control, in whole or in part, of the controller's assets, but only if the controller, in a reasonable time prior to the transfer, provides an affected consumer with:
10 11 12	(1) A notice describing the transfer, including the name of the entity receiving the consumer's personal data and the applicable privacy policies of the receiving entity; and
13	(2) A reasonable opportunity to:
14 15	(a) Withdraw any previous consent related to the consumer's personal data; and
16	(b) Request deletion of the consumer's personal data.'
17 18 19	Amend the bill in section 1 in c. 1057 in §9613 in subsection 5 in paragraph B in the first line (page 21, line 7 in L.D.) by inserting after the following: "an individual's" the following: 'collection or'
20 21	Amend the bill in section 1 in c. 1057 in §9613 by striking out all of subsection 6 (page 21, lines 9 to 11 in L.D.) and inserting the following:
22 23 24 25	'6. Burden of proof. If a controller collects or processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that the collection or processing qualifies for the exemption and complies with the limitations in subsection 7.
26 27	Amend the bill in section 1 in c. 1057 in §9613 by striking out all of subsection 7 (page 21, lines 12 to 20 in L.D.) and inserting the following:
28 29 30	'7. Limitations. Personal data collected or processed by a controller or processor pursuant to an exemption in this section may be collected or processed only to the extent that the collection or processing is:
31 32 33 34	A. Subject to reasonable administrative, technical and physical measures to protect the confidentiality, integrity and accessibility of the personal data and reduce reasonably foreseeable risks of harm to consumers relating to the collection, use or retention of personal data;
35	B. Reasonably necessary and proportionate to the purposes listed in this section; and
36 37	C. Adequate, relevant and limited to what is necessary in relation to the specific purposes listed in this section.'
38 39	Amend the bill in section 1 in c. 1057 in §9613 by striking out all of subsection 8 (page 21, lines 21 to 23 in L.D.) and inserting the following:

Page 8 - 132LR0014(02)

) S .	COMMITTEE AMENDMENT "人" to H.P. 1220, L.D. 1822				
1 2 3	'8. Collecting or processing personal data pursuant to an exemption. A person that collects or processes personal data pursuant to an exemption in this section may not be considered a controller solely based on that collection or processing of personal data.'				
4 5 6	Amend the bill in section 1 in c. 1057 in §9614 in subsection 2 in paragraph C in the first line (page 21, line 42 in L.D.) by inserting after the following: "processor's" the following: 'collection or'				
7	Amend the bill in section 1 in c. 1057 by inserting after §9614 the following:				
8	\ <u>§9615. Report</u>				
9 10 11 12	By February 1, 2027 and annually thereafter, the Attorney General shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters regarding the implementation and operation of this chapter. The report must include, at a minimum, the following information:				
13 14	1. Number of notices. The number of notices the Attorney General has issued under section 9613, subsection 2 and the nature of the violations alleged in the notices;				
15 16 17 18	2. Number of persons sent a notice. The number of persons sent a notice described in subsection 1 that conferred with the Attorney General during the notice period described in section 9613, subsection 2 in a manner that alleviated the need for a civil action under the Maine Unfair Trade Practices Act;				
19 20 21	3. Number of civil actions. The number of civil actions brought by the Attorney General under the Maine Unfair Trade Practices Act to enforce violations of this chapter; and				
22 23	4. Recommendations. Any recommendations the Attorney General has for improving the operation of this chapter.				
24 25	The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation related to the report.				
26 27	Amend the bill in section 1 in chapter 1057 by renumbering the sections to read consecutively.				
28	Amend the bill by striking out all of sections 2 and 3 and	l inserting the foll	lowing:		
29 30	'Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.				
31	ATTORNEY GENERAL, DEPARTMENT OF THE				
32	Administration - Attorney General 0310				
33 34 35	Initiative: Provides funding for one Assistant Attorney General position, one Paralegal position, one Technician position and related costs to administer and enforce the Maine Online Data Privacy Act.				
36 37 38 39 40	GENERAL FUND POSITIONS - LEGISLATIVE COUNT Personal Services All Other	2025-26 0.000 \$0 \$0	3.000 \$420,508 \$20,000		
41	GENERAL FUND TOTAL	\$0	\$440,508		

Sec. 3. Effective date. This Act takes effect September 1, 2026.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

 This amendment, which is the majority report of the committee, makes the following changes to the bill.

1. It changes the effective date of the Maine Online Data Privacy Act from July 1, 2026 to September 1, 2026.

2. It clarifies that the term "process" does not include the collection of personal data and makes technical changes throughout the bill to address the difference between collection and processing of personal data and sensitive data.

3. It amends the definition of "publicly available information" to exclude any information used to create a consumer profile, any information made available for sale and inferences derived from these types of information.

4. It clarifies the types of consumer financial information that are considered "sensitive data" under the Act.

22.

5. It provides that the Act does not prohibit the transfer of personal data as part of the transfer of assets to a 3rd party in the context of a merger, acquisition or bankruptcy as long as the controller provides an affected consumer with a notice describing the transfer, including the name of the entity acquiring the personal data and the entity's privacy policies as well as a reasonable opportunity for the consumer to withdraw any previous consent related to the consumer's personal data and to request deletion of the consumer's personal data

6. It exempts personal data collected and used pursuant to the federal Controlled Substances Act, 21 United States Code, Section 830, from the scope of the Act.

 7. It provides that, although a controller must limit the collection of personal data to what is reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer, such services include routine administrative, operational, website or account-servicing activities that are consistent with the reasonable expectations of the consumer under the circumstances, including collection of the consumer's personal data to provide advertising to the consumer based on the consumer's activities within the controller's own websites or online applications.

8. It removes the provision of the bill that requires a processor to provide a controller an opportunity to object to the processor's engaging of a subcontractor, but retains the provision of the bill requiring the processor to require any subcontractor to assist with processing only in accordance with a written contract that requires the subcontractor to meet the processor's obligations regarding the personal data under the processor's contract with the controller.

9. It removes the provision of the bill requiring 3rd parties to provide specific notices to consumers.

Page 10 - 132LR0014(02)

MOS	COMMITTEE AMENDMENT "A" to H.P. 1220, L.D. 1822
1	10. It removes the requirement that controllers conduct data protection assessments for
2	each algorithm used on personal data.
3	11. Unlike the bill, which requires only a single report on February 1, 2027, it requires
4	the Attorney General to submit, beginning February 1, 2027, an annual report to the joint
5	standing committee of the Legislature having jurisdiction over judiciary matters regarding
6	the implementing and operation of the Act.
7	FISCAL NOTE DECLURED

(See attached)



132nd MAINE LEGISLATURE

LD 1822

LR 14(02)

An Act to Enact the Maine Online Data Privacy Act

Fiscal Note for Bill as Amended by Committee Amendment (14-716)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2025-26	FY 2026-27	Projections FY 2027-28	Projections FY 2028-29
Net Cost (Savings) General Fund	. \$0	\$440,508	\$457,416	\$489,920
Appropriations/Allocations General Fund	\$0	\$440,508	\$457,416	\$489,920

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The bill includes a General Fund appropriation to the Office of the Attorney General of \$440,508 in fiscal year 2026-27 for one Assistant Attorney General position, one Paralegal position, one Technician position and related costs to administer and enforce the Maine Consumer Privacy Act.