

# MAINE STATE LEGISLATURE

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M.S.S.

L.D. 2436

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1730, L.D. 2436, Bill, "An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers"

Amend the bill by striking out all everything after the title and before the summary and inserting in its place the following:

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §200-B, as amended by PL 1999, c. 398, Pt. A, §1 and affected by §105, is further amended to read:

§200-B. Authority of Attorney General to request utility records

~~1. Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 7, 8, 12, 14, 15, 19, 20-B and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.~~

1-A. Definitions. As used in this section, the following terms have the following meanings.

A. "Internet service provider" means an entity that provides electronic communication or remote computation services, whether or not subject to the jurisdiction of the Public Utilities Commission.

B. "Utility services" means:

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2 (1) Services furnished by a public utility, as defined  
4 in Title 35-A, section 102, subsections 7, 8, 12, 14,  
15, 19, 20-B and 22, whether or not subject to the  
jurisdiction of the Public Utilities Commission;

6 (2) Services provided by an Internet service provider;  
8 and

10 (3) Mobile telecommunications services, as defined in  
12 Title 35-A, section 102, subsection 9-A, whether or not  
14 the provider of the mobile telecommunications services  
is subject to the jurisdiction of the Public Utilities  
Commission.

16 **2. Demand for records of utility services; cause.** The  
18 Attorney General, a deputy attorney general or a district  
20 attorney may demand, in writing, all the records or information  
22 in the possession of the public utility or Internet service  
24 provider relating to the furnishing of public utility services or  
26 Internet services to a person or a location if the attorney has  
reasonable grounds to believe that the services furnished to a  
person or to a location by a public utility or Internet service  
provider are being or may be used for, or to further, an unlawful  
purpose. ~~Upon a showing of cause to any Justice of the Superior~~  
~~Court or Judge of the District Court, the justice or judge shall~~  
~~approve the demand. Showing of cause must be by the affidavit of~~  
~~any law enforcement officer.~~

28 Records of utility services, as applied to Internet service  
30 providers, are limited to the following information and records  
32 in the possession of the Internet service provider: the  
34 subscriber's or customer's name, address, local and long-distance  
telephone billing records, telephone number or other subscriber  
number or identity and length of time the services have been  
provided to the subscriber or customer.

36 Upon a showing of cause to any Justice of the Superior Court or  
38 Judge of the District Court, the justice or judge shall approve  
40 the demand. Showing of cause must be by the affidavit of any law  
enforcement officer.

42 **3. Release of other information.** An order approving a  
44 demand for utility records of utility services may include a  
46 provision prohibiting the public--utility provider of utility  
48 services from releasing the fact of the request or that the  
records or information will be or have been supplied. The public  
utility provider of utility services may not release the fact or  
facts without obtaining a court order to that effect.



2 This amendment uses the federal definition of "Internet  
3 service provider" and limits records of utility services to  
4 subscriber information: name, address, local and long-distance  
5 telephone billing records, telephone number or other subscriber  
6 number or identity and the length of time the services have been  
7 provided to the subscriber or customer. Content of electronic  
8 mail and other transmissions is excluded.

10 This amendment defines "utility services" subject to a  
11 demand for records as the following: services provided by  
12 ferries, gas utilities, public heating utilities, radio common  
13 carriers, radio paging services, telephone utilities,  
14 transmission and distribution utilities and water utilities,  
15 whether or not subject to the jurisdiction of the Public  
16 Utilities Commission; mobile telecommunications services, whether  
17 or not subject to the jurisdiction of the Public Utilities  
18 Commission; and services provided by Internet service providers.

20 The procedure a prosecutor must follow to demand and receive  
21 the records is not changed, except that a notice requirement is  
22 added. Within 60 days of the approval of the demand for utility  
23 service records, the prosecutor must notify the person who is the  
24 subject of the records. The prosecutor may ask the court to  
25 extend that period, which the court may do upon a showing of  
26 reasonable cause. The period of the extension may not be  
27 indefinite but must be to a certain time. Additional extensions  
28 may be requested.

30 The amendment also adds a fiscal note to the bill.