

MAINE STATE LEGISLATURE

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Date: 3/28/06
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3 Utilities and Energy

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5 STATE OF MAINE
6 HOUSE OF REPRESENTATIVES
7 122ND LEGISLATURE
8 SECOND REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to H.P. 1436, L.D. 2038, Bill, "An Act To
10 Protect the Privacy of Cellular Telephone Customers"

11 Amend the bill by inserting after the title and before the enacting clause the
12 following:

13 'Emergency preamble. Whereas, acts of the Legislature do not become effective
14 until 90 days after adjournment unless enacted as emergencies; and

15 Whereas, the sale and disclosure of customer proprietary information is occurring
16 now and is a practice that needs to be addressed immediately; and

17 Whereas, in the judgment of the Legislature, these facts create an emergency within
18 the meaning of the Constitution of Maine and require the following legislation as
19 immediately necessary for the preservation of the public peace, health and safety; now,
20 therefore,'

21 Further amend the bill by striking out everything after the enacting clause and before
22 the summary and inserting in its place the following:

23 'Sec. 1. 10 MRSA c. 223-A is enacted to read:

24 CHAPTER 223-A

25 CELLULAR TELEPHONE CUSTOMER PRIVACY ACT

26 §1496-A. Short title

27 This chapter may be known and cited as "the Cellular Telephone Customer Privacy
28 Act."

29 §1496-B. Definitions

30 As used in this chapter, unless the context otherwise indicates, the following terms
31 have the following meanings.

1 1. Customer proprietary network information. "Customer proprietary network
2 information" has the same meaning as in 47 United States Code, Section 222(h)(1) as in
3 effect on January 1, 2006.

4 2. Telecommunications carrier. "Telecommunications carrier" has the same
5 meaning as in 47 United States Code, Section 153(44) as in effect on January 1, 2006.

6 3. Wireless telephone service. "Wireless telephone service" means any mobile
7 telecommunications services as defined in Title 35-A, section 102, subsection 9-A.

8 4. Wireless telephone service provider. "Wireless telephone service provider"
9 means a telecommunications carrier that provides wireless telephone service.

10 **§1496-C. Sale or disclosure of customer proprietary network information**

11 1. Civil violation. Except as provided in subsection 3, a person may not sell or
12 disclose or offer to sell or disclose any customer proprietary network information relating
13 to the wireless telephone service account of any wireless telephone service customer or
14 user in this State.

15 A. Violation of this subsection constitutes a violation of the Maine Unfair Trade
16 Practices Act.

17 2. Criminal violation. Except as provided in subsection 3, a person may not
18 knowingly sell or disclose or offer to sell or disclose any customer proprietary network
19 information relating to the wireless telephone service account of any wireless telephone
20 service customer or user in this State.

21 A. A person who violates this subsection commits a Class D crime.

22 3. Exceptions. The prohibitions contained in subsections 1 and 2 do not apply to a
23 disclosure of customer proprietary network information:

24 A. Authorized or required by:

25 (1) Any state or federal law, regulation or rule;

26 (2) An order of an agency having regulatory authority over a wireless telephone
27 service provider; or

28 (3) The wireless telephone service account holder; or

29 B. Required by a subpoena, warrant or other lawful process.

30 **Emergency clause.** In view of the emergency cited in the preamble, this Act takes
31 effect when approved.'

32 **SUMMARY**

33 This amendment replaces the bill but preserves the main substance of the bill.

34 This amendment makes the following changes:

35 1. Reallocates the provisions of the bill from the Maine Revised Statutes, Title 35-A
36 to Title 10, since the provisions do not relate to matters within the jurisdiction of the
37 Public Utilities Commission and there is no intent to have the commission enforce these
38 provisions;

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COMMITTEE AMENDMENT "A" to H.P. 1436, L.D. 2038

- 1 2. Separates the civil and criminal violations for judicial tracking and citing
- 2 purposes;
- 3 3. Clarifies the definition of "wireless telephone service";
- 4 4. Adds limiting language to cited definitions in federal law to ensure that changes in
- 5 those federal law definitions do not affect the meaning or intent of these provisions;
- 6 5. Makes the prohibitions in the bill applicable to the sale or disclosure of customer
- 7 proprietary network information relating to the wireless telephone service account of any
- 8 wireless service customer or user in this State;
- 9 6. Corrects a reference to federal law; and
- 10 7. Adds an emergency preamble and emergency clause to the bill.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



Approved: 03/27/06 *MAC*

122nd MAINE LEGISLATURE

LD 2038

LR 3092(02)

An Act To Protect the Privacy of Cellular Telephone Customers

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements

Establishes a new Class D crime.

The collection of additional fines may also increase General Fund revenue by minor amounts.