

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1697

H.P. 1198

House of Representatives, January 6, 2010

An Act To Protect Universal Service

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FITTS of Pittsfield.
Cosponsored by Representative FLETCHER of Winslow.

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

2 **Sec. 1. 5 MRSA §1812-H is enacted to read:**

3 **§1812-H. Telecommunications service and information service**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Information service" has the same meaning as in 47 United States Code, Section
7 153.

8 B. "Telecommunications service" has the same meaning as in 47 United States Code,
9 Section 153.

10 **2. Provision of telecommunications service or information service.** An
11 instrumentality, institution or agency of the State may not provide telecommunications
12 service or information service to any person other than itself or its tenants.

13 **3. Procurement of telecommunications service or information service.** An
14 instrumentality, institution or agency of the State may not procure telecommunications
15 service or information service in a manner that constrains or limits the consideration of
16 proposals to provide service containing alternative technologies, services and network
17 architecture that meets the needs of the institution or agency procuring the service. The
18 instrumentality, institution or agency may not require that an alternative proposal contain
19 provisions for connection to or utilization of a particular technology or a particular
20 network or service of the agency or any other provider.

21 **4. Remedies.** In addition to any other remedy that exists at law or in equity, any
22 person who is damaged or threatened with loss or injury by reason of a violation of this
23 section may bring a civil action against the instrumentality, institution or agency of the
24 State in the Superior Court in the county where the injured or threatened person resides to
25 prevent, restrain or enjoin the violation or threatened violation of this section or seek
26 damages. If the court finds that a violation or threatened violation of this section has
27 occurred, the court may:

28 A. Enjoin, restrain or otherwise prohibit such action; and

29 B. Order payment of damages to the injured or threatened person equal to 3 times the
30 amount of actual damages sustained by that person and the costs of the action,
31 including reasonable attorney's fees.

32 **5. Waiver of sovereign immunity.** For the purposes of this section, the State
33 waives its sovereign immunity.

34 **Sec. 2. 35-A MRSA §2301-A, as enacted by PL 2007, c. 268, §1, is repealed.**

