

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

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Legislative Document

No. 313

H.P. 222

House of Representatives, February 7, 2013

An Act To Create the Maine Online Privacy Protection Act

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RUSSELL of Portland.

Cosponsored by Representatives: BERRY of Bowdoinham, CAREY of Lewiston, DION of Portland, HICKMAN of Winthrop, McCLELLAN of Raymond.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the online privacy of the personal information of consumers residing in
4 Maine is of utmost importance; and

5 **Whereas,** each day thousands of consumers in Maine use online services and
6 websites that have access to personal information; and

7 **Whereas,** consumers, in order to protect their personal information, need to know
8 how online services and websites use or share that personal information and should have
9 that information, as provided according to this Act, as soon as possible; and

10 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
11 the meaning of the Constitution of Maine and require the following legislation as
12 immediately necessary for the preservation of the public peace, health and safety; now,
13 therefore,

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

15 **Sec. 1. 10 MRSA c. 1057** is enacted to read:

16 **CHAPTER 1057**

17 **MAINE ONLINE PRIVACY PROTECTION ACT**

18 **§9571. Short title**

19 This chapter may be known and cited as "the Maine Online Privacy Protection Act."

20 **§9572. Definitions**

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

23 **1. Consumer.** "Consumer" means an individual residing in this State who seeks or
24 acquires, by purchase or lease, any goods, services, money or credit for personal, family
25 or household purposes.

26 **2. Operator.** "Operator" means a person or company that owns a publicly accessible
27 website or online service that collects personal information from an individual consumer
28 who uses that publicly accessible website or online service. "Operator" does not include a
29 3rd party that operates, hosts or manages a publicly accessible website or online service
30 on behalf of the owner of the publicly accessible website or online service or processes
31 information on the owner's behalf.

32 **3. Personal information.** "Personal information" has the same meaning as in
33 section 1347, subsection 6.

1 **§9573. Privacy statement to protect personal information**

2 **1. Posting of privacy statement.** An operator shall conspicuously post on its
3 publicly accessible website in accordance with subsection 3 a privacy statement that
4 contains the components described in subsection 2.

5 **2. Privacy statement content.** The privacy statement posted pursuant to subsection
6 1 must contain all of the following:

7 A. A list of the personal information that is collected by the operator;

8 B. A description of the entities with whom the operator may share a consumer's
9 personal information;

10 C. If the operator has a process for a consumer who uses the operator's publicly
11 accessible website to review and request changes to the consumer's personal
12 information that is collected by the operator, a description of that process;

13 D. A description of the process used by the operator to notify a consumer who uses
14 its publicly accessible website of material changes to that operator's privacy
15 statement; and

16 E. The effective date of the privacy statement.

17 **3. Conspicuously post.** A privacy statement required under subsection 1 is
18 considered conspicuously posted if it meets any the following criteria:

19 A. The privacy statement in its entirety is posted on the home page or the first page
20 seen by a consumer upon entering the publicly accessible website;

21 B. An icon that links directly to the privacy statement in its entirety is located on the
22 home page or the first page seen by a consumer upon entering the publicly accessible
23 website; and

24 C. A hyperlink that links directly to the privacy statement in its entirety is located on
25 the home page or the first page seen by a consumer upon entering the publicly
26 accessible website, if that hyperlink:

27 (1) Includes the word "privacy"; and

28 (2) Is written in capital letters that are equal to or greater in size than the
29 surrounding text or is set apart from surrounding text by using a contrasting
30 typeface, font or color or other marks that call attention to the privacy statement.

31 **Emergency clause.** In view of the emergency cited in the preamble, this
32 legislation takes effect when approved.

33 **SUMMARY**

34 This bill requires a person or company that owns a publicly accessible website or
35 online service that collects personal information from an individual consumer who is a
36 resident of this State to post a privacy statement in a conspicuous location on its publicly
37 accessible website.

1 The bill also lists required content of the privacy statement.