

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

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Legislative Document

No. 144

H.P. 102

House of Representatives, January 22, 2015

**An Act To Protect the Privacy of Consumers Who Use Credit Cards
for Online Purchases of Products**

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative RUSSELL of Portland.

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

2 **Sec. 1. 10 MRSA c. 210-C** is enacted to read:

3 **CHAPTER 210-C**

4 **CONSUMER PRIVACY FOR ONLINE PURCHASES OF PRODUCTS**

5 **§1350-J. Definitions**

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

8 **1. Electronic downloadable product.** "Electronic downloadable product" means a
9 product, service, subscription or any other consideration in which the product, service,
10 subscription or consideration is provided by means of a download to a computer,
11 telephone or other electronic device.

12 **2. Entity.** "Entity" means a person, firm, partnership, association or corporation.

13 **3. Online transaction involving an electronic downloadable product.** "Online
14 transaction involving an electronic downloadable product" means a credit card
15 transaction for the purchase of an electronic downloadable product.

16 **4. Personal identification information.** "Personal identification information"
17 means information concerning a cardholder, other than information set forth on the credit
18 card, including, but not limited to, the cardholder's address and telephone number.

19 **§1350-K. Online credit card transactions; permitted uses of personal identification**
20 **information**

21 **1. Acceptance of credit card; use of personal identification information.** An
22 entity accepting a credit card may require a cardholder, as a condition to accepting a
23 credit card as payment in full or in part, in an online transaction involving an electronic
24 downloadable product to provide personal identification information only if that entity
25 requires that information solely for the detection, investigation or prevention of fraud,
26 theft, identity theft or criminal activity or for enforcement of the terms of sale.

27 **2. Disposal of personal identification information.** An entity accepting a credit
28 card as payment shall destroy or dispose of the personal identification information the
29 entity requires pursuant to this section in a secure manner after the information is no
30 longer needed for the purposes authorized under this section. The entity accepting the
31 credit card may not aggregate the personal identification information the entity requires
32 pursuant to this section with any other personal identification information and may not
33 share the personal identification information the entity requires pursuant to this section
34 with any other entity unless:

35 **A.** The entity is required to do so by state or federal law;

1 B. The entity is contractually obligated to share the information with another entity
2 to verify the information or complete the transaction;

3 C. Necessary for the detection, investigation or prevention of fraud, theft, identity
4 theft or criminal activity; or

5 D. Necessary for enforcement of the terms of sale.

6 **§1350-L. Consumer accounts; electronic downloadable products**

7 **1. Account required.** An entity that provides an electronic downloadable product
8 may require a consumer to establish an account as a condition for the purchase of an
9 electronic downloadable product and may require a consumer to provide personal
10 identification information to establish, maintain or update that account. Except as
11 provided in subsection 2, the personal identification information collected pursuant to this
12 subsection may be used only for the establishment, maintenance or updating of the
13 account or to process a credit card transaction.

14 **2. Opt-in for collection of personal identification information.** Concurrent with
15 completing an online transaction involving an electronic downloadable product, or when
16 establishing an account pursuant to subsection 1, a consumer may elect to provide
17 personal identification information by opting in to the collection and use of that
18 information if the consumer is simultaneously notified of the following:

19 A. That providing the information is not required to complete the transaction;

20 B. The purpose of the request; and

21 C. The intended use of the information.

22 **3. Opt-out.** A consumer must be provided with an opportunity to opt out of the
23 collection of personal identification information before an online transaction involving an
24 electronic downloadable product is completed.

25 **§1350-M. Enforcement; penalties**

26 **1. Enforcement.** The appropriate state regulators within the Department of
27 Professional and Financial Regulation shall enforce this chapter for any entity that is
28 licensed or regulated by those regulators. The Attorney General shall enforce this chapter
29 for all other persons.

30 **2. Civil violation.** An entity that violates this chapter commits a civil violation and
31 is subject to the following:

32 A. A fine of not more than \$250 for the first violation and \$1,000 for each
33 subsequent violation, except that a civil penalty may not be assessed for a violation of
34 this chapter if the defendant shows by a preponderance of the evidence that the
35 violation was not intentional and resulted from a bona fide error made
36 notwithstanding the defendant's maintenance of procedures reasonably adopted to
37 avoid that error;

38 B. Equitable relief; or

