

Public Affairs

Alexandra Serra, Senior Manager

Senator Bliss
Representative Priest
Joint Standing Committee on the Judiciary
100 State House Station
Augusta, ME 04333

RE: COMMENTS ON PL 2009, CHAPTER 230

Senator Bliss, Representative Priest:

Thank you for the opportunity to comment on PL 2009, Chapter 230. We appreciate the opportunity to share our concerns and give you further information about how this new law impacts our business.

As written, this new law greatly inhibits Walmart's ability to provide products and services to our customers in Maine.

The law would have a large effect on our pharmacy operations. Section 9552(2) of the law prohibits transferring any information that individually identifies a minor. This section does not provide an exception either for operational uses of information or transfers with the verifiable consent of the parent. Therefore, this section would prohibit Walmart from providing pharmacy services to minors in Maine.

Our pharmacies collect personal and health information about a minor in order to fill prescriptions. The collected information individually identifies the minor and, if requested by the patient or the patient's parent, will be transferred to a third-party insurance company. We must be able to transfer claims to insurance companies on behalf of our patients.

The law also would require Walmart to collect date of birth from all customers in all transactions, online and in-store, in Maine. Sections 9552 and 9553 prohibit using minor information or marketing to minors. These sections do not restrict these provisions to knowingly transferring minor information or marketing to minors. Therefore, these sections appear to hold entities strictly liable for transferring minor information or marketing to a minor. In order to avoid liability, Walmart would need to be able to screen out minors before transferring information or marketing to individual. Walmart would need to begin collecting a date of birth in all transactions to be able to either prohibit minors from completing a transaction with Walmart or to remove minors before transferring information or marketing.

There are several concerns with collecting date of birth. First, this increases our overall transaction times, causing customers to spend more time in the checkout lines. In addition, collecting date of birth increases the risk to customer privacy, requiring Walmart to collect information that we would not otherwise collect and maintain that information so we can screen out minors. To some extent, this is also contrary to the intent of the law. We would have to collect more information about minors, just to screen them out. Finally, consumers are very protective of their date of birth. While they understand

the collection of this information for age-restricted purchases, they would likely be opposed to providing this information for other transactions.

Finally, entities would be unable to use existing marketing lists that do not already have date of birth information. Entities would only be able to create marketing lists once they begin collecting date of birth in all transactions.

Thank you for considering our comments, I would be happy to provide additional information if it would be helpful to the Committee's deliberations.