

October 8, 2009

Honorable Larry Bliss
Honorable Charles Priest
Joint Standing Committee on Judiciary
115 State House Station
Augusta, ME 04333

Re: 2009, chapter 230 (L.D. 1183) An Act to Prevent Predatory Marketing Practices Against Minors

Dear Senator Bliss, Representative Priest, and members of the Joint Standing Committee on Judiciary:

Let me begin by thanking the members of this committee for their willingness to undertake a review of the law passed last session with respect to the collection of data involving minors without consent, Public Law 2009, Chapter 230. We recognize that the legislation has drawn considerable attention over the past few weeks, and has clearly caught the attention of Maine's business community.

I want to emphasize that in expressing concern with the law in question, we in no way are condoning predatory marketing to minors or any other age group in this state, for any product or services. I have spoken with the sponsor of this law, and recognize that the intention behind the original law was well intended. Its presence in Maine law has, however, set in motion the law of unintended consequences. Many Maine employers are confused and concerned, and this concern comes at a time when our economy continues to struggle. It is a distraction that has employers wondering about how it may impact their business practices, what their liability may be, and any potential exposure for its violation. We are confident that this committee will want to address the constitutional issues associated with this law. The more difficult question for this committee and the legislature as a whole, is how to achieve the original intent of L.D. 1183 without further confusing the many and varied businesses that are impacted, and without adding costs or hindrances to their operations.

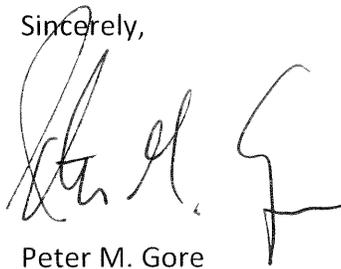
I would like to be able to tell this committee that we have an easy solution – however we don't. We know that many, varied elements of our economy may from time to time, collect the type of information Chapter 230 sought to address. The act of collecting such information does not automatically translate into its misuse, intent to sell, inappropriate marketing, or other malicious activities. In fact, we believe that an overwhelming majority of those entities

engaged in the collection of such data are using the information in an ethical and appropriate fashion. There are legitimate business uses for such information that some Maine businesses and entities depend, and may even require. We are also aware of a variety of protections already in place at both the state and national levels regarding the collection of data involving a minor. We would urge this committee to review some of these protections in an effort to determine if yet another one is necessary, or if by doing so, it adds to the confusion surrounding this issue.

The Maine State Chamber does recognize that some legislative action will be required to reconcile the existing constitutional issues currently found with respect to Chapter 230. This committee will be presented with a number of proposed solutions and amendments designed to address the remaining data collection issue. We urge the committee to carefully examine each, and work to develop a real workable solution, or solutions, that won't exacerbate the "unintended consequences" situation Maine businesses and lawmakers currently find ourselves embroiled in.

As always, we stand ready to work with this committee or any other group to try and address this difficult situation. If we can be of any assistance please do not hesitate to call upon us. Once more, we appreciate the opportunity to participate in this process and provide you with our thoughts.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Gore". The signature is fluid and cursive, with a large initial "P" and "G".

Peter M. Gore
Vice President for Advocacy and Government
Relations