

**NetChoice** *Promoting free expression and free enterprise on the net*



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### ***Opposition to LD 1945 and overregulation of biometric technology***

We ask you to **not advance LD 1945** because it will deny Maine residents the benefits of many emerging services. While privacy is a concern for many Maine residents, the unintended consequences of this legislation could put Maine and Maine residents at a real disadvantage.

While biometrics may seem like a scary term, many of us are using biometric technologies every day in ways that make our lives easier and more secure. This includes using facial recognition technology to identify friends and family in Shutterfly albums, and Nest doorbells that can provide a sense of security in seeing what is happening outside our homes.

More evolving technologies that make our lives easier and safer using biometrics are increasingly available. For example, voice authentication from Pindrop can identify scammers and reduce annoying robocalls.

But LD 1945 could curtail these beneficial uses of biometric technology.

The real consequences of overregulation of biometric technology can be readily seen in Illinois today. The Illinois's Biometric Information Privacy Act (BIPA) has enabled astounding lawsuits against Shutterfly, Amazon, Google, Apple, Six Flags, and nursing homes. Illinois voters have lost out on the ability to use tech innovations such as Google Art Selfie Match that allowed residents to find their fine art lookalike. As the images below show BIPA's restrictions and the risks of litigation have resulted in Amazon Photos disabling facial recognition to sort photos a user has uploaded, prevented Nest from offering security matching for friends and family, and stopped an innovative ordering solution at local restaurants that would have allowed customer to place their favorite order with just their face.

**Help & Customer Service**

Digital Music, Amazon Video & Apps > Prime Photos & Amazon Drive > Prime Photos Features & Apps >

## Notice to Illinois Residents

Image recognition features are disabled initially for Illinois residents because an Illinois state law may require the informed written consent from an Illinois resident before performing image recognition on photos that include his or her face.

**Enabling Image Recognition on Photos.** By enabling image recognition features for your account, you understand that image recognition analysis will be performed on the photos stored in your account, and you represent to us that you have obtained the consent of the individuals in the photos stored in your account permitting us to use image recognition analysis on photos of them.

**Image Recognition on Photos in Family Vault.** The user who established a Family Vault controls whether image recognition features are enabled in the Family Vault. If you enable image recognition features in your Family Vault, you understand that image recognition analysis will be performed on the photos stored by each member of the Family Vault, and you represent to us that you have obtained the consent of each member of your Family Vault to use image recognition analysis on photos of them. Further, you represent that you have ensured that each member of your Family Vault has obtained the consent of the individuals in the photos they store with us to use image recognition analysis on photos of them.

If you are invited to participate in a Prime member's Family Vault, the Prime member who invited you will control whether image recognition features are enabled for the Family Vault. If the image recognition features are enabled for the Family Vault, image recognition analysis will be performed on the photos you store with us. By accepting the Family Vault invitation, you represent to us that you have obtained the consent of each individual in your photos to use image recognition analysis on photos of them.

You may access the image recognition features by navigating the setting page in your Prime Photo account.

*Because of BIPA, Amazon Photos does not allow searching photos by face for Illinois residents*

Nest Cam IQ Overview Specs **PRE-ORDER**



## State-of-the-art smart.

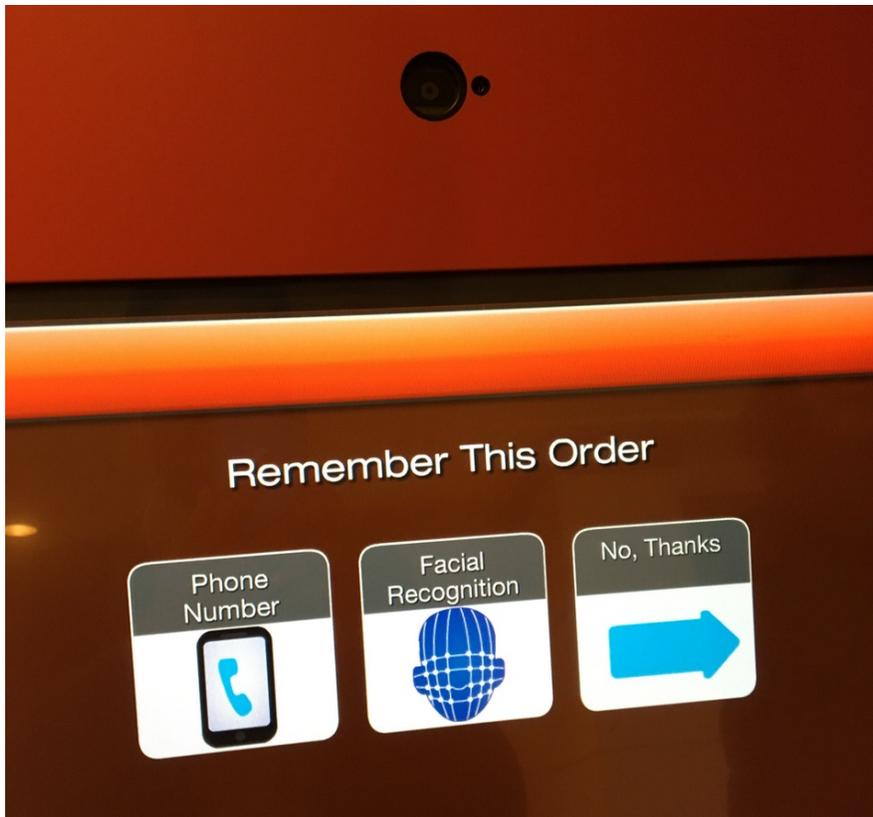
Nest Cam IQ has serious processing power, so it can do things like tell a person from a thing. And even recognize faces with Nest Aware.\*

[Add familiar face alerts\\* >](#)  
with Nest Aware subscription

- 6-core processor
- Better connectivity†
- Person alerts

\*Familiar face alerts require a Nest Aware subscription. Not available on Nest Cams used in Illinois.  
†Compared to Nest Cam Indoor, thanks to 802.11ac Wi-Fi and a 2x2 MIMO chip.

*Because of BIPA, Nest does not allow Illinois residents the ability to identify friends and family members*



*Because of BIPA, restaurant kiosks allowing quick reorder of meals at Wao Bao via customer recognition are no longer available in Illinois*

In many of these cases, there was not a definable harm that occurred, but the mere existence of a violation was sufficient for class-action litigation. As a result, such bills are not “pro-consumer” or even “pro-privacy,” but better understood as “pro-lawsuit”.

Longer term, this legislation may prevent new secure biometric benefits from being available to Maine residents.

When it comes to concerns about privacy, a variety of state and federal laws already address many of the concerns that animate this legislation. These include the Children’s Online Privacy Protection Act (COPPA), the Electronic Communications Privacy Act (ECPA), industry specific regulations in healthcare, banking, and education, and the state’s own data breach law. In the case of concerns such as data breaches of sensitive information, existing laws already empower the Maine Attorney General to bring cases to protect consumers.

In addition to these specific national laws, the Federal Trade Commission (FTC) actively enforces against privacy and security issues across the country, including those involving biometric information. Under its Section 5 authority regarding “unfair or deceptive practices, the FTC is using an adjustable enforcement approach that evolves with technology and industry best

practices. This framework is the ideal way to regulate technologies with a wide-range of applications like the biometrics and has proven an effective way to ensure companies implement strong data security and privacy protections without stifling innovation.

We appreciate your consideration and ask that you **not advance LD 1945**. We welcome the opportunity to work with this committee more as it considers the ideal approach to privacy for the citizens of Maine.

Sincerely,

Carl Szabo  
Vice President & General Counsel, NetChoice

*NetChoice is a trade association of businesses who share the goal of promoting free expression and free enterprise on the net. [www.netchoice.org](http://www.netchoice.org)*