

MAINE STATE LEGISLATURE

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New Draft of: H. P. 545, L. D. 621
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1599

H. P. 1460

House of Representatives, May 14, 1981

Reported by the Majority from the Committee on Business Legislation and
Printed under Joint Rules No. 2

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT Concerning Illegal, Fraudulent or Unconscionable Conduct in Attempted
Collection of Debts.**

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

Sec. 1. 9-A MRSA § 5-116, as enacted by PL 1973, c. 762, § 1, is amended by inserting before subsection 1 a new paragraph to read:

The Legislature finds that certain practices employed in the collection of a debt arising from a consumer credit transaction are unfair, abusive and constitute an invasion of an individual's right to privacy. It is the legislative intent to regulate the collection of consumer debts so as to allow the collection of just and owing debts in a manner that is fair, honest and with due regard for the rights of both creditors and consumers.

Sec. 2. 9-A MRSA § 5-116, sub-§ 1, ¶¶ D and E as enacted by PL 1973, c. 762, § 1, are repealed and the following enacted in its place:

D. Communicate or threaten to communicate with the debtor's employer concerning the existence of a debt unless the communication is made for the purposes of verifying the debtor's employment, locating the debtor, effecting garnishment, after judgment, of a debtor's wages or, in the case of a medical debt, for the purpose of discovering the existence of medical insurance;

E. Communicate or threaten to communicate, directly or indirectly, to a

person other than the debtor or his resident spouse, information regarding the debt with knowledge or reason to know that the other person does not have a legitimate business need for the information, except that a creditor may contact persons for the purpose of seeking location information concerning the debtor when the creditor cannot ascertain the location of the debtor after reasonable effort and does not state, directly or indirectly, that the debtor owes any debt;

Sec. 3. 9-A MRSA § 5-116, sub-§ 1, ¶¶ H and I, as enacted by PL 1973, c. 762, § 1, are amended to read:

H. Use a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, government agency, or attorney-at-law when it is not; ~~or~~

I. Engage in conduct in violation of a rule adopted and published by the administrator after like conduct has been restrained or enjoined by a final order of a court in a civil action by the administrator against any person pursuant to the provisions or injunctions against fraudulent or unconscionable agreements or conduct, section 6-111;

Sec. 4. 9-A MRSA § 5-116, sub-§ 1, ¶¶ J and K are enacted to read:

J. Engage an debtor in communication by telephone, initiated by the creditor, in excess of 3 calls in any 7-day period at a debtor's residence and 3 calls in any 30-day period at a location other than the debtor's residence, for each debt; provided that for purposes of this paragraph, a creditor may treat any billing address of the debtor as his place of residence; or

K. Communicate or threaten to communicate with the debtor at his place of employment if the debtor has made a written or oral request that the communication not take place.

STATEMENT OF FACT

The purpose of this new draft is to clarify existing law regulating the debt collection practices of creditors subject to the Maine Consumer Credit Code: A statement of legislative intent is added; creditors are prohibited from contacting the debtor's employer to discuss the debt but may contact the employer for the purposes specified in section 2 of the new draft; existing law prohibiting contacts by creditors to 3rd persons is clarified to allow such contacts for location information or "legitimate business need;" frequency of communication with the debtor is increased from the original bill from 2 to 3 telephone contacts each week at the debtor's residence and 2 to 3 calls each month at other locations; and the right of the debtor to halt contacts at his place of employment is retained from the original bill.