

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

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Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Chapter 183.

Fair Trade Act.

Sec. 2. Unfair competition defined.—Willfully and knowingly advertising, offering for sale, selling or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to section 1, whether the person so advertising, offering for sale, selling or disposing of is or is not a party to such contract, is unfair competition and is actionable by any person injured thereby. (R. S. c. 169, § 2. 1961, c. 317, § 626.)

Effect of amendment.—The 1961 amendment deleted “the provisions of” preceding “section 1” near the middle of this section and substituted “by” for “at the suit of” near the end of the section.

Sec. 4. Injunction and recovery of damages.—Any person, firm, corporation or incorporated trade association may maintain an action in the superior court to enjoin a continuance of any act or acts in violation of section 2 and, if injured thereby, for the recovery of damages. If in such action the court shall find that the defendant is violating or has violated any of the provisions of section 2, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff shall be entitled to recover from the defendant three times the amount of the actual damages, if any, sustained. (R. S. c. 169, § 4. 1963, c. 414, § 153.)

Effect of amendment.—The 1963 amendment deleted “supreme judicial or” formerly preceding “superior court” in the first sentence and also deleted “the provisions of” formerly preceding “section 2” in such sentence.

Chapter 184.

Unfair Sales Act.

Sec. 1. Definitions.

History of “Unfair Sales” legislation.—See Farmington Dowel Products Co. v. Forster Mfg. Co., 153 Me. 265, 136 A. (2d) 542.

Purpose and constitutionality.—This law comes within the well recognized police powers of the state, and has for its purpose the prevention of ruthless, unfair and destructive competition, and to that extent is constitutional. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

The Maine statute contains language unlike that found in the statutes of other states. *Farmington Dowel Products Co. v. Forster Mfg. Co.*, 153 Me. 265, 136 A. (2d) 542.

Conduct which was lawful at common law is by the statute made wrongful. *Farmington Dowel Products Co. v. Forster Mfg. Co.*, 153 Me. 265, 136 A. (2d) 542.

And the statute, being in derogation of the common law, must be strictly construed. *Farmington Dowel Products Co.*

v. Forster Mfg. Co., 153 Me. 265, 136 A. (2d) 542.

The statute has newly created what may be termed a business crime. The offending merchant may find himself faced with either criminal prosecution, the threat of injunction, or an action at law for damages. In either case, he is entitled to be informed by the statute in explicit and unambiguous language what acts and conduct are prohibited. *Farmington Dowel Products Co. v. Forster Mfg. Co.*, 153 Me. 265, 136 A. (2d) 542.

It is most important that the language of the statute inform the businessman of ordinary intelligence whether his particular business operations are covered by the statute, and if so, what conduct on his part is specifically prohibited. If the statute is so vague and uncertain with respect to these matters as to leave him to guess as to its application, it is unenforceable as to him. This basic rule applies alike to criminal prosecution and injunctive relief. *Farmington Dowel Products Co. v.*