

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND SIXTH LEGISLATURE

---

---

Legislative Document

No. 1004

---

---

H. P. 770

House of Representatives, February 21, 1973

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Perkins of South Portland.

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

---

**AN ACT Relating to Temporary Restraining Order and Cost of Litigation  
by the Attorney General under Unfair Trade Practices Act.**

---

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

**Sec. 1. R. S., T. 5, § 209, amended.** The 6th sentence of section 209 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 577 of the public laws of 1969, is amended to read as follows:

The said courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter ~~provided that no restraining order or injunction shall be issued except upon notice and an opportunity to be heard.~~

**Sec. 2. R. S., T. 5, § 209, amended.** The last sentence of section 209 of Title 5 of the Revised Statutes, as enacted by section 2 of chapter 338 of the public laws of 1971, is repealed and the following enacted in place thereof:

**In any action under this section where a permanent injunction is issued, the court may order the person against whom the permanent injunction has been issued to pay to the State the costs of the suit, including attorney's fees, and the investigation of that person by the Attorney General, which funds shall be applied in the carrying out of this chapter.**

STATEMENT OF FACT

Presently, the Attorney General may not obtain a temporary restraining order, under the provisions of the Unfair Trade Practices Act, without first

notifying the defendant. This limitation is more restrictive than the guidelines set forth by the Maine Rules of Civil Procedure governing temporary restraining orders.

Consumer fraud cases have arisen, and will no doubt arise in the future, where notice to the defendant prior to the issuance of a restraining order will permit the defendant to flee the jurisdiction of the court along with his available assets which might otherwise have been utilized to make restitution to defrauded Maine consumers.

This amendment will still require the Attorney General to notify opposing counsel unless the court is convinced that irreparable injury to Maine consumers will result.

The 2nd part of this amendment would remove the burden from taxpayers for the cost of consumer fraud litigation initiated by the Attorney General, and more properly place the burden upon the defendants in those actions where the courts issue a permanent injunction against the deceptive practices utilized by the defendant.