

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1606

H. P. 1235

House of Representatives, March 26, 1973

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mrs. Baker of Orrington.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Relating to the Immunity Provisions of the Unfair Trade Practices Act.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the United States Supreme Court in *Kastigar v. U. S.* 406 U. S. 441 (1972) has defined the scope of the immunity which a statute must provide in order for the immunity to be coextensive with the scope of the privilege against self-incrimination and, therefore, sufficient to supplant the privilege; and

Whereas, it is important that the immunity provisions of the Unfair Trade Practices Act be consistent with the scope of the immunity required by the Fifth Amendment of the Constitution of the United States as interpreted in *Kastigar v. U. S.* 406 U. S. 441, (1972); and

Whereas, information is frequently demanded under the authority of Title 5, section 211; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**R. S., T. 5, § 211, amended.** The last paragraph of section 211 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:

At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand. The motion may be filed in the Superior Court of the county in which the person served resides or has his ~~equal~~ usual place of business, or in Kennebec County. ~~This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions~~ No person shall be excused from attending and testifying or from producing documentary material in compliance with this section on the ground or for the reason that the testimony or other information, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no testimony or other information obtained under the authority of this section, or any information directly or indirectly derived from such testimony or other information, may be used against a natural person who has testified or produced information under oath in compliance with this section in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with a notice served upon him under this section.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### STATEMENT OF FACT

The purpose of this bill is set forth in the emergency preamble.