

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 696

S. P. 206

In Senate, February 19, 1975

Referred to the Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Berry of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT to Permit Reimbursement of Attorney General's Cost of
Investigation when a Permanent Injunction is Issued.**

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

5 MRSA § 209, last sentence, as repealed and replaced by PL 1973, c. 419, § 2, is amended to read:

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 investigation of that person by the Attorney General** and the costs of the suit, which funds shall be applied in the carrying out of this chapter.

STATEMENT OF FACT

This bill permits the courts in their discretion to order a person against whom a permanent injunction has issued to pay to the State the costs of investigating that person. Presently Title 5, section 209 of the Unfair Trade Practices statute only permits the courts to order the wrongdoers to stop using the unlawful method of doing business, to return to a consumer who has suffered an ascertainable loss any money or property obtained from consumers by use of the unlawful practice, and to pay costs of the suit. The statute imposes no fine or penalty against a person who is enjoined from engaging in an unlawful practice.

It seems to be an appropriate remedy for the State's interest to make the wrongdoer pay to the State the cost of the investigation when a permanent

injunction has been issued. To do so shifts the burden of paying for the investigation from the taxpayer to the wrongdoer. Other states such as Maryland, Vermont, Arizona and Oregon have statutes permitting the court to order a person against whom a permanent injunction has been issued in cases involving deceptive trade practices to pay to the State a civil penalty, investigative costs or attorney's fees.