

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 305

S. P. 126

In Senate, February 9, 1977

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

MAY M. ROSS, Secretary

Presented by Senator Farley of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Require Substantiation of Certain Advertising Claims.

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

5 MRSA § 211-A is enacted to read:

§ 211-A. Substantiation of advertising claims

Upon written request of the Attorney General, any person engaged in trade and commerce and on whose behalf advertising containing factual, objective or clinical claims is used in this State, shall provide to the Attorney General all evidence of the facts upon which such advertising claims are based. Any such request shall be made within one year of the last day on which the advertising claim was made and all evidence shall be provided to the Attorney General within 10 days of the receipt of the request. If any person fails to make a timely and complete response to the written request of the Attorney General under this section, the Attorney General in addition to other relief which may be sought for violation of this chapter, may enjoin the further use of the advertising claim. Such an action for injunction shall be brought in accordance with the procedures set out in section 209 and relief shall be granted without regard to the deceptive nature of the advertisement.

Upon request, the Attorney General shall not disclose legitimate trade secrets which may be revealed as a result of compliance with the request under this section, except as such disclosure is necessary in a proceeding under this chapter and in any event under the terms and conditions the court may deem appropriate.

STATEMENT OF FACT

This bill permits the Attorney General to require substantiation of all factual claims made by advertisers in the State of Maine. This information is necessary in order that the Attorney General be in a position to accurately evaluate whether an advertisement violates the State's Unfair Trade Practices Act. The powers afforded the Attorney General under this amendment are far less extensive than the powers presently exercised by the Federal Trade Commission under 15 U.S.C.A. § 46 (b).