

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 410

H. P. 372

House of Representatives, January 26, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Unfair Trade Practice Laws.

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

5 MRSA § 213, sub-§ 1, first sentence, as amended by PL 1973, c. 788, § 13, is further amended to read:

Any person who purchases or leases goods, services or property, real or personal, primarily for personal, family or household purposes and thereby suffers any **compensable** loss of ~~money or property, real or personal~~ as a result of the use or employment by another person of a method, act or practice declared unlawful by section 207 or by any rule or regulation issued under section 207, subsection 2 may bring an action in the Superior Court for **damages or restitution, or both**, and for such other **legal or** equitable relief, including an injunction, as the court may deem to be necessary and proper.

STATEMENT OF FACT

In a recent case, **Bartner v. Carter**, the Law Court ruled that damages recoverable in a law suit under the unfair trade practice laws are limited to return of the money actually paid or the property actually conveyed. People harmed by an unfair trade practice often suffer harm apart from the loss of money paid or property conveyed. A person may, for example, be injured in an accident caused by a used part installed without his consent. Installation of used part without the

owner's consent is declared an unfair trade practice under state law. Obviously, however, mere return of the money paid for the part would be inadequate to compensate the unlucky car owner. Unless the law is amended, people in these circumstances cannot be fully compensated for their loss. This bill makes the technical changes necessary to enable people who have been harmed to be fully compensated.