

MAINE STATE LEGISLATURE

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(New Draft of S.P. 54, L.D. 146)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 664

S.P. 241

In Senate, February 10, 1983

Reported by Senator Trafton from the Committee on Judiciary and
printed under Joint Rule 2.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Allow the District Court to
Grant Restitution in Cases of Unfair Trade
Practices.

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

Sec. 1. 4 MRSA §152, first ¶, as amended by PL
1981, c. 645, §1, is further amended to read:

The District Court shall possess the civil juris-
diction exercised by all trial justices and municipal
courts in the State on September 16, 1961, and in ad-
dition, original jurisdiction, concurrent with that
of the Superior Court of all civil actions in which
neither damages in excess of \$20,000, nor, except as
herein provided, equitable relief is demanded of pro-
ceedings under Title 14, sections 6651 to 6658 and of
actions for divorce, annulment of marriage or judi-

1 cial separation and of proceedings under Title 19 and
2 original jurisdiction, concurrent with that of the
3 Superior Court, of actions to quiet title to real
4 estate under Title 14, sections 6651 to 6658, and in
5 these actions the District Court may grant equitable
6 relief; and original jurisdiction, concurrent with
7 that of the Superior Court, for restitution under
8 Title 5, section 213, and in these actions the Dis-
9 trict Court may grant equitable relief; and original
10 jurisdiction, concurrent with that of the Superior
11 Court, for breach of implied warranty and covenant of
12 habitability under Title 14, section 6021, and in
13 these actions the District Court may grant equitable
14 relief; and original jurisdiction, concurrent with
15 that of the Superior Court, of actions to quiet title
16 to real estate under Title 36, section 946, and in
17 such actions the District Court may grant equitable
18 relief, of actions to foreclose mortgages under Title
19 14, chapter 713, subchapter VI; and of mental health
20 commitment hearings under Title 34, chapter 191, sub-
21 chapter III, and of mental retardation certification
22 hearings under Title 34, chapter 229; and of small
23 claims actions under Title 14, chapter 738, and in
24 these actions the District Court may grant equitable
25 relief. This limitation as to damages shall not
26 apply in any action of divorce, annulment or separa-
27 tion of marriage or in any action to enforce judgment
28 of support or alimony. Actions for divorce, annul-
29 ment or separation may be remanded, upon agreement of
30 the parties, from the Superior Court to the District
31 Court in accordance with rules promulgated by the
32 Supreme Judicial Court. An action so remanded shall
33 remain in the District Court, which shall have exclu-
34 sive jurisdiction thereafter, subject to the rights
35 of appeal to the Superior Court as to matters of law.

36 Sec. 2. 5 MRS.A, §213, sub-§1, as amended by PL
37 1979, c. 451, is further amended to read:

38 1. Court action. Any person who purchases or
39 leases goods, services or property, real or personal,
40 primarily for personal, family or household purposes
41 and thereby suffers any loss of money or property,
42 real or personal, as a result of the use or employ-
43 ment by another person of a method, act or practice
44 declared unlawful by section 207 or by any rule or
45 regulation issued under section 207, subsection 2 may

1 bring an action either in the Superior Court or Dis-
2 trict Court for restitution and for such other equi-
3 table relief, including an injunction, as the court
4 may deem to be necessary and proper. There shall be
5 a right to trial by jury in any action brought in
6 Superior Court under this section.

7

STATEMENT OF FACT

8 The original bill, and this new draft, expand
9 the District Court's jurisdiction to hear cases under
10 the unfair trade practices laws. Currently, an
11 unfair trade practice suit may be brought in the Dis-
12 trict Court as a small claims proceeding if a sum of
13 \$1,000 or less is sought. All other such claims must
14 be brought in Superior Court. In many cases both
15 parties would prefer to proceed in District Court
16 because the case may be resolved more quickly and may
17 be less expensive for both parties than it would in
18 Superior Court. This bill creates no new consumer
19 rights. It gives the District Court concurrent
20 jurisdiction with the Superior Court over unfair
21 trade practices' cases and may lessen the caseload in
22 Superior Court.

23 This new draft differs from the original bill
24 only in that it permits the District Court to grant
25 all types of equitable relief, including injunctions,
26 in unfair trade practices' cases. The original bill
27 sought to limit this power to the Superior Court per-
28 mitting the District Court to only hear cases seeking
29 restitution. This full grant of equitable jurisdic-
30 tion to the District Court in unfair trade practices'
31 suits is accomplished by a change in section 2 of the
32 bill.

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