

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 266

H.P. 214 House of Representatives, February 5, 1987
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative PARADIS of Augusta.
Cosponsored by Representative WARREN of Scarborough and
Senator BRANNIGAN of Cumberland.

STATE OF MAINE

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

AN ACT to Amend the State Antitrust Laws.

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

10 MRSA §1104, as amended by PL 1985, c. 349, is
repealed and the following enacted in its place:

§1104. Right of action and damages

1. Right of action and damages. Any person, in-
cluding the State or any political subdivision of the
State, injured in its business or property by any
other person or corporation by reason of anything
forbidden or declared to be unlawful by section 1101,
1102 or 1102-A, may sue for the injury in a civil ac-
tion. If the court finds for the plaintiff, he shall
recover 3 times the amount of the damages sustained

1 and cost of suit, including necessary and reasonable
2 investigative costs, reasonable experts' fees and
3 reasonable attorneys fees.

4 2. Injunction. The Attorney General may insti-
5 tute proceedings in equity to prevent and restrain
6 violations of sections 1101, 1102 and 1102-A.

7 A. These proceedings may be by way of petitions
8 setting forth the case and praying that the vio-
9 lation shall be enjoined or otherwise prohibited.

10 B. When the parties complained of have been duly
11 notified of that petition, the court shall pro-
12 ceed as soon as possible to the hearing and de-
13 termination of the case.

14 C. Pending the petition and before final decree,
15 the court may at any time make such temporary re-
16 straining order or prohibition as considered just
17 under the circumstances.

18 3. Civil penalty. Each course of conduct which
19 constitutes a violation of sections 1101 and 1102 is
20 a civil violation for which a civil penalty of not
21 more than \$50,000 for each defendant shall be ad-
22 judged.

23 A. In any action initiated by the Attorney Gen-
24 eral pursuant to this section to prevent and re-
25 strain violations of sections 1101 and 1102, the
26 Attorney General may include an action to recover
27 civil penalties by each defendant for each course
28 of conduct alleged.

29 B. An action to recover a civil penalty from a
30 defendant under this section shall bar a criminal
31 prosecution pursuant to section 1101 or 1102
32 against that defendant for the same course of
33 conduct on which the action to recover the civil
34 penalty is based.

35 C. A criminal prosecution against a defendant
36 pursuant to section 1101 or 1102 shall bar any
37 action to recover a civil penalty under this sec-
38 tion from that defendant for the same course of
39 conduct on which the criminal prosecution is
40 based.

1 still may be liable for treble damages, costs and at-
2 torneys fees under the State's laws. This bill adds 2
3 new subsections to the Maine Revised Statutes, Title
4 10, section 1104, that exempt political subdivisions,
5 their officials and employees acting in an official
6 capacity and those directed to act by a political
7 subdivision or its officials or employees acting in
8 an official capacity from liability for treble dam-
9 ages, costs and attorneys fees under the Maine law.
10 This exemption is consistent with federal law and,
11 like federal law, still permits a party to seek in-
12 junctive relief under state antitrust law against a
13 political subdivision or its officials, employees or
14 agents.

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