

MAINE STATE LEGISLATURE

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L.D. 797

(Filing No. S-129)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 299, L.D. 797, Bill, "An Act to Impose Civil Penalties for Intentional Violations of the Maine Unfair Trade Practices Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'5 MRSA §209, last ¶, as enacted by PL 1987, c. 307, §2, is amended to read:

In any action by the Attorney General brought against the defendant for violating the terms of an injunction issued under this section, the court may make such orders or judgments as may be necessary to restore to any persons who have suffered any ascertainable loss by reason of such conduct found to be in violation of an injunction, any money or property, real or personal, which may have been acquired by means of such conduct. Each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is either unfair or deceptive is a violation for which a civil penalty of not more than \$10,000 shall be adjudged. The Attorney General may seek to recover civil penalties for violations of section 207 which are intentional and are unfair or deceptive. The Attorney General in seeking civil penalties has the burden of proving that the conduct was intentional and was unfair or deceptive notwithstanding any other statute which declares a violation of that statute an unfair trade practice. These penalties shall be applied in the carrying out of this chapter.'

STATEMENT OF FACT

This amendment imposes civil penalties of a maximum of \$10,000 for violations of the Maine Unfair Trade Practices Act which are intentional and unfair or deceptive. This amendment also clarifies that the Attorney General must prove that the

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1 conduct alleged was intentional and was unfair or deceptive to
2 obtain a civil penalty. There are a number of other laws which
3 provide that a violation of that law constitutes an unfair trade
4 practice. The Maine Revised Statutes, Title 10, section 1477 of
5 the Used Car Information Act, chapter 217, is an example of such
6 a provision. The Attorney General would not be able to rely on
7 such a provision in prosecuting a civil penalty, but would have
8 to prove the elements set forth in section 209. Such evidence
9 could include proof of violation of the substantive provisions of
 those laws.

Reported by Senator Matthews for the Committee on Legal
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