

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2204

H.P. 1566

House of Representatives, January 23, 1992

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

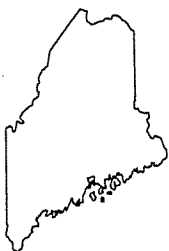
Presented by Representative SHELTRA of Biddeford.

Cosponsored by Representative VIGUE of Winslow, Senator BERUBE of Androscoggin and Representative LORD of Waterboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Regulate Home Repair by Transient Contractors.



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

4 32 MRSA c.128 is enacted to read:

6 CHAPTER 128

8 DOOR-TO-DOOR SALES BY
HOME REPAIR CONTRACTORS

10 §14501. Definitions

12 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

14 1. Consumer. "Consumer" means any person who purchases or
16 contracts for the purchase of home repair services.

18 2. Door-to-door sales. "Door-to-door sales" means the
20 solicitation or sale of home repair services by a home repair
22 contractor or the contractor's employees to a consumer as a
24 result of or in connection with the contractor's or the
26 employee's direct contact accomplished by means of and including,
but not limited to, a personal visit or telephone call to the
consumer, other than at the contractor's place of business,
without the consumer soliciting the initial contact.

28 3. Employee. "Employee" means any independent contractor,
agent or person working for a salary or commission who is
affiliated with a home repair contractor.

30 4. Home repair contractor. "Home repair contractor" means
32 any person, individual, partnership, corporation, business, trust
or other legal entity that sells or provides home repair services.

34 5. Home repair services. "Home repair services" means to
36 fix, replace, alter, convert, modernize, improve or make an
38 addition to any real property primarily designed or used as a
40 residence. "Home repair services" includes the construction,
42 installation, replacement or improvement of driveways, swimming
44 pools, porches, kitchens, chimneys, chimney liners, garages,
fences, fall-out shelters, central air conditioning, central
heating, boilers, furnaces, hot water heaters, electric wiring,
sewers, plumbing fixtures, storm doors, storm windows, siding,
awnings and other improvements to structures within the residence
or upon the land adjacent to the residence.

46 6. Local police department. "Local police department"
48 means the municipality's local police department or, if none, the
county sheriff.

50 7. Permanent place of business. "Permanent place of
52 business" means any building or other permanent fixed structure,

2 including a home residence that is owned or held under a 12-month
3 lease or rental agreement from which business is commenced, and
4 is used in whole or in part for the purpose of engaging in sales
5 of home repair services.

6 8. Residence. "Residence" means a single-family or
7 multifamily dwelling, including, but not limited to, a
8 single-family home, apartment building, condominium, duplex or
9 town house that is used or intended to be used by its occupants
10 as their dwelling place.

11 9. Transient seller of home repair services. "Transient
12 seller of home repair services" means any home repair contractor
13 who engages in the business of door-to-door solicitations or
14 sales who does not have, at the time of the solicitation or
15 contract, a permanent place of business in the municipality in
16 which the door-to-door solicitation or sale occurs.

17 **§14502. Exemptions**

18
19
20 1. New homes. Nothing in this chapter may be construed to
21 apply to the original construction of a single-family or
22 multifamily residence.

23
24 2. Sales amount. Nothing in this chapter applies to home
25 repair services for which the gross sales price, including any
26 interest or carrying charges, is less than \$25.

27
28 **§14503. Home repair services contract**

29
30 It is a violation of this chapter if a home repair services
31 contract subject to this chapter fails to meet the written
32 contract requirements, if applicable, of:

33
34 1. Consumer solicitation sales. The laws governing
35 consumer solicitation sales, sections 4661 to 4670;

36
37 2. Transient sales. The laws governing transient sales,
38 sections 4681 to 4689;

39
40 3. Home solicitation sales. The laws governing home
41 solicitation sales, Title 9-A, sections 3-501 to 3-507; and

42
43 4. Home construction contracts. The laws governing home
44 construction contracts, Title 10, sections 1486 to 1490.

45
46 **§14504. Local registration**

47
48 Any transient seller of home repair services engaging in
49 door-to-door sales must register with the local police department
50 and acquire a door-to-door sales registration in the manner set

2 forth in section 14505 before engaging in the door-to-door sales
3 of home repair services.

4 **§14505. Door-to-door sales registration**

6 1. Issuance. The local police department shall issue to
7 each transient seller of home repair services and each employee
8 of that seller a door-to-door sales registration that, among
9 other things, must indicate that the person whose name appears on
10 the registration is a registered home repair contractor or
11 employee of a registered home repair contractor under this
12 chapter.

14 2. Possession and presentation. Each transient seller of
15 home repair services and each employee of that seller must have a
16 valid registration, as required by this chapter, in immediate
17 possession at all times when engaging in door-to-door sales of
18 home repair services in the relevant municipality and must
19 present that registration for inspection upon the request of any
20 person.

22 **§14506. Disclosure of registration**

24 Any contract for door-to-door sales of home repair services
25 must include the contractor's door-to-door sales registration
26 number in the following manner: (name of municipality)
27 door-to-door sales registration #: (fill in number).

28 **§14507. Application**

30 Each application for registration under this chapter must be
31 sworn to and must include:

34 1. Name and address. The name, local and permanent
35 business address, if any, of the home repair contractor, the
36 contractor's date of birth and the contractor's social security
37 number;

38 2. Employees of the home repair contractor. The names of
39 all employees of the home repair contractor, their dates of birth
40 and social security numbers; and

42 3. Statement. At the time of making the application, a
43 statement of all judgments secured or outstanding against the
44 home repair contractor arising out of home repair services during
45 the 4 years prior to making the application, all criminal or
46 civil suits pending against the applicant that arise out of home
47 repair services and all criminal convictions and criminal suits
48 pending for theft against the applicant.

2 The applicant shall promptly notify the local police
3 department of all changes or additions in the information
4 required by this section.

5 Any false statement in an application, either original or
6 supplementary, is ground for denying the application and subjects
7 the contractor to the same penalty as if the contractor had no
8 registration.

10 **§14508. Renewal application**

11 A renewal application must be filed by the applicant on
12 October 31st or at such other times as the local police
13 department may designate. The renewal application must include
14 all changes or additions to the information required by section
15 14507. The local police department must mail notice to each home
16 repair contractor's last known address 30 days in advance of the
17 expiration date. The renewal application must be accompanied by
18 a renewal fee, as provided in section 14509.

19 **§14509. Registration fee**

20 Each home repair contractor engaging in door-to-door sales
21 must pay to the local police department the following fees at the
22 time an application is made for registration or renewal:

23 1. Transient seller registration. For an original or
24 renewal transient seller registration, \$100; and

25 2. Employee registration. For an original or renewal
26 registration of each employee of a transient seller, \$25.

27 **§14510. Registration issued**

28 The local police department shall issue to the home repair
29 contractor and employees of that contractor a registration upon
30 receipt of the completed application in proper form and
31 appropriate fees.

32 **§14511. Expiration**

33 1. Registrations. Registrations issued under section 14511
34 expire:

35 A. On the date that the registrant ceases door-to-door
36 sales and surrenders the registration to the local police
37 department;

38 B. When the registrant fails to file a new application as
39 required by section 14508; or

40 C. Upon the surrender of the registration for cancellation.

2 **§14512. Service of process**

4 The local police department is an agent of each home repair
6 contractor engaging in door-to-door sales of home repair services
8 for service of any process, notice or demand required or
10 permitted by law. This service is binding upon the contractor.
12 Service of any such process, notice or demand must be made as
14 provided by the Maine Rules of Civil Procedure.

16 **§14513. Attorney General forms and model contract**

18 The Department of the Attorney General is provided
20 rule-making authority to promulgate all local police forms
22 necessary to implement this chapter. In addition, the Department
24 of the Attorney General shall prepare a brochure, including a
26 form contract for door-to-door sales, that fully describes the
28 obligations of a door-to-door seller of home repair services
30 under this chapter. The Department of the Attorney General shall
32 distribute these forms and this brochure to all local police
34 departments.

36 **§14514. Home repair fraud**

38 A transient seller of home repair services engaging in
40 door-to-door sales is also in violation of this chapter when the
42 seller or the seller's employee knowingly:

44 1. Misrepresentation. Misrepresents a material fact
46 relating to the terms of the contract or agreement of the
48 preexisting or existing condition of any portion of the property
50 involved, creates or confirms an impression that is false and
 that the seller does not believe to be true, or promises
 performance that the seller does not intend to perform or knows
 will not be performed;

2. Deception. Uses any deception, false pretense or false
 promises to induce, encourage or solicit a person to enter into
 any contract or agreement;

3. Unconscionable agreement. Enters into any
 unconscionable agreement or contract requiring payment to the
 seller of at least \$500. A contract is unconscionable under this
 chapter when an unreasonable difference exists between the value
 of the services, materials and work to be performed and the
 amount to be charged for those services, material and work. For
 purposes of this section, prima facie evidence of an
 unconscionable agreement exists if the total payment called for
 by the contract or agreement is in excess of 4 times the fair
 market value for those services, materials and work; or

