

MAINE STATE LEGISLATURE

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DR
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L.D. 788

(Filing No. H-210)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 584, L.D. 788, Bill, "An Act to Prevent Unauthorized Use of the Name Passamaquoddy"

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

'Sec. 1. 31 MRSA §6-A is enacted to read:

§6-A. Use of "Passamaquoddy" prohibited

A person or persons, partnership, corporation or other entity engaged in any business or activities may not adopt a name that contains the word "Passamaquoddy" or use the word "Passamaquoddy" in connection with goods manufactured or sold or services provided after December 31, 1993 without written authorization from the Passamaquoddy Tribe.

1. Extent of authorization. Unless greater authority is expressly granted by the Passamaquoddy Tribe, no authorization extends to a business, activity, product or service not disclosed to the Passamaquoddy Tribe at the time of the request for authorization. Authorization is revocable unless by its terms it is irrevocable.

2. Deceptive trade practices. Violation of this section is a deceptive trade practice and unlawful under Title 10, chapter 206.

3. Exemptions. The following are exempted from the provisions of this section:

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A. The use of the words "Passamaquoddy Bay":

(1) As part of a trade name of an entity or sole proprietorship; or

(2) In connection with goods manufactured or sold or services provided; and

B. Use of the word "Passamaquoddy" by a person who was using it prior to January 1, 1993:

(1) As part of a specific trade name of an entity or sole proprietorship; or

(2) In connection with specific goods or specific services provided.

The exemption in this paragraph does not extend to the use of the word "Passamaquoddy" as part of any trade name not in use prior to January 1, 1993 or in connection with any specific goods or services not being sold prior to January 1, 1993.

Sec. 2. Retroactivity. This Act applies retroactively to January 1, 1993.

FISCAL NOTE

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.'

STATEMENT OF FACT

This amendment grants to the Passamaquoddy Tribe protection from any unauthorized use of the word "Passamaquoddy" for commercial or nonprofit purposes after December 31, 1993. The bill limited the protection to that equal to a trademark. The amendment make makes a violation of the provision enforceable under the Maine Deceptive Trade Practices Act rather than the Unfair Trade Practices Act, as the bill specified. The amendment exempts the term "Passamaquoddy Bay" and the use of the term

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2 "Passamaquoddy" for a specific product or service or as a trade name by persons who were using it for that product or service or as a trade name before January 1, 1993.

Reported by the Committee on Business Legislation
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COMMITTEE AMENDMENT