

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1713

H.P. 1213

House of Representatives, April 1, 1997

**An Act Relating to Compensatory and Punitive Damages Under the
Maine Human Rights Act.**

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

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

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4 **Sec. 1. 5 MRSA §4613, sub-§2, ¶B**, as amended by PL 1991, c.
474, §1 and affected by §3, is further amended to read:

6 B. If the court finds that unlawful discrimination
8 occurred, its judgment must specify an appropriate remedy or
remedies for that discrimination. The remedies may include,
but are not limited to:

10 (1) An order to cease and desist from the unlawful
12 practices specified in the order;

14 (2) An order to employ or reinstate a victim of
16 unlawful employment discrimination, with or without
back pay;

18 (3) An order to accept or reinstate such a person in a
20 union;

22 (4) An order to rent or sell a specified housing
24 accommodation, or one substantially identical to that
accommodation if controlled by the respondent, to a
victim of unlawful housing discrimination;

26 (5) An order requiring the disclosure of the locations
28 and descriptions of all housing accommodations that the
violate has the right to sell, rent, lease or manage;
and forbidding the sale, rental or lease of that those
30 housing accommodations until the violator has given
security to assure compliance with any order entered
32 against the violator and with all provisions of this
Act. An order may continue the court's jurisdiction
34 until the violator has demonstrated compliance, and may
defer decision on some or all relief until after a
36 probationary period and a further hearing on the
violate's conduct during that period;

38 (6) An order to pay the victim, in cases of unlawful
40 price discrimination, 3 times the amount of any
42 excessive price demanded and paid by reason of that
unlawful discrimination; and

44 ~~(7) An order to pay to the victim of unlawful~~
46 ~~discrimination or, if the commission brings action on~~
48 ~~behalf of the victim, an order to pay to the victim,~~
50 ~~the commission or both, civil penal damages not in~~
52 ~~excess of \$10,000 in the case of the first order under~~
~~this Act against the respondent, not in excess of~~
~~\$25,000 in the case of a 2nd order against the~~
~~respondent arising under the same subchapter of this~~
~~Act and not in excess of \$50,000 in the case of a 3rd~~

2 er--subsequent--order--against--the--respondent--arising
under--the--same--subchapter--of--this--Act,--except--that--the
4 total--amount--of--civil--penal--damages--awarded--in--any
action--filed--under--this--Act--may--not--exceed--the--limits
6 contained--in--this--subparagraph;--and

8 (8) In cases of intentional discrimination,
compensatory and punitive damages as provided in this
subparagraph:

10 (a) In an action brought by a complaining party
12 under section 4612 and this section against a
14 respondent who engaged in unlawful intentional
16 discrimination prohibited under sections 4571 to
18 4602, if the complaining party can not recover
20 under 42 United States Code, Section 1981 (1994),
the complaining party may recover compensatory and
punitive damages as allowed in this subparagraph
in addition to any relief authorized elsewhere in
this subsection from the respondent.

22 (b) When a discriminatory practice involves the
24 provision of a reasonable accommodation, damages
26 may not be awarded under this subparagraph when
28 the covered entity demonstrates good faith
30 efforts, in consultation with the person with the
32 disability who has informed the covered entity
that accommodation is needed, to identify and make
a reasonable accommodation that would provide that
individual with an equally effective opportunity
and would not cause an undue hardship on the
operation of the business.

34 (c) A complaining party may recover punitive
36 damages under this subparagraph against a
38 respondent if the complaining party demonstrates
40 that the respondent engaged in a discriminatory
practice or discriminatory practices with malice
or with reckless indifference to the rights of an
aggrieved individual protected by this Act.

42 (d) Compensatory damages awarded under this
44 subparagraph do not include back pay, interest on
46 back pay or any other type of relief authorized
elsewhere under this subsection.

48 (e) The sum of compensatory damages awarded under
50 this subparagraph for future pecuniary losses,
emotional pain, suffering, inconvenience, mental
anguish, loss of enjoyment of life, other
nonpecuniary losses and the amount of punitive

2 damages awarded under this section may not exceed
3 for each complaining party:

4 (i) In the case of a respondent who has
5 fewer than 15 employees in each of 20 or more
6 calendar weeks in the current or preceding
7 calendar year, \$10,000;

8 (ii) In the case of a respondent who has
9 more than 14 and fewer than 101 employees in
10 each of 20 or more calendar weeks in the
11 current or preceding calendar year, \$50,000;

12 (iii) In the case of a respondent who has
13 more than 100 and fewer than 201 employees in
14 each of 20 or more calendar weeks in the
15 current or preceding calendar year, \$100,000;

16 (iv) In the case of a respondent who has
17 more than 200 and fewer than 501 employees in
18 each of 20 or more calendar weeks in the
19 current or preceding calendar year, \$200,000;
20 and

21 (v) In the case of a respondent who has more
22 than 500 employees in each of 20 or more
23 calendar weeks in the current or preceding
24 calendar year, \$300,000.

25 (f) Nothing in this subparagraph may be construed
26 to limit the scope of, or the relief available
27 under, 42 United States Code, Section 1981 (1994).

28 (g) If a complaining party seeks compensatory or
29 punitive damages under this subparagraph, any
30 party may demand a trial by jury and the court may
31 not inform the jury of the limitations described
32 in division (e).

33 (h) This subparagraph does not apply to
34 recoveries for a practice that is unlawful only
35 because of its disparate impact; and

36 (9) In addition to other remedies in subparagraphs (1)
37 to (8), an order to pay actual damages in the case of
38 discriminatory housing practices. This subparagraph is
39 not intended to limit actual damages available to a
40 plaintiff alleging other discrimination if the remedy
41 of actual damages is otherwise available under this Act.

SUMMARY

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4 This bill makes the remedies available in proven cases of
unlawful discrimination under the Maine Human Rights Act the same
6 as those now available under the Federal Civil Rights Act of
1991, the Americans with Disabilities Act of 1990 and the Federal
Fair Housing Amendments Act of 1988.