

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

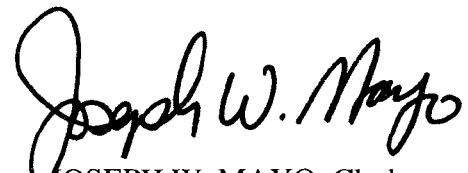
No. 1948

H.P. 1348

House of Representatives, March 18, 1999

**An Act Relating to Unfair Competition Between Nonprofit
Organizations and Small Businesses.**

Reference to the Committee on Business and Economic Development suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative TRIPP of Topsham. (By Request)

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

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Sec. 1. 10 MRSA c. 229 is enacted to read:

CHAPTER 229

UNFAIR COMPETITION BY
NONPROFIT ORGANIZATIONS

§1500-M. Unfair competition prohibited

1. Prohibitions. A nonprofit organization may not:

A. Fund, capitalize, guarantee the indebtedness of, lease obligations of or subsidize a for-profit business that is unrelated to the organization's purpose as stated in that organization's articles of incorporation, bylaws or other governing legal document; or

B. Provide services or goods unrelated to the organization's purpose as stated in that organization's articles of incorporation, bylaws or other governing legal document to the general public at a price that is at least 15% lower than the price at which those services or goods are available through businesses with 25 or fewer employees.

2. Exceptions. The following are not violations of subsection 1, paragraph B:

A. Providing goods or services to an employee, a staff member, an alumnus or alumna, a faculty member, a member, a student, a client, a volunteer, a patient or a resident of a nonprofit organization, except if such a person's sole relationship with that organization is to receive the products or services;

B. Providing goods or services to the general public at no charge or reduced charge based upon income or need;

C. Investing in real estate, publicly traded securities or other investments;

D. Providing financial or other support for other nonprofit organizations; or

E. Providing goods or services at a price that is at least 15% lower than the price at which those goods are available through businesses with 25 or fewer employees if that price is the same as or higher than the price at which the same goods or services are available from any for-profit business.

2 3. Loss of exemption; penalty. A nonprofit organization
4 that violates this section may not claim an exemption from tax
6 for any year in which a violation occurred. In addition, an
8 organization that violates this section may be assessed a civil
 penalty of \$5,000 per violation. A nonprofit organization has
 the burden of proving compliance with this section before
 claiming an exemption.

10 4. Enforcement. The Attorney General may prosecute
12 violations of this section by commencing a civil action in
 Superior Court.

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SUMMARY

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18 This bill prevents nonprofit organizations from using their
20 nonprofit status to compete with small businesses with 25 or
22 fewer employees. Nonprofit organizations may not provide goods
24 or services to the general public at a price that is at least 15%
 less than the price at which those goods or services are
 available through a small business. A violation of these
 provisions results in the loss of tax exemptions and may subject
 the violator to a civil penalty of \$5,000.