MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document No. 95	
H.P. 733	House of Representatives, February 20, 2001
An Act Rel Practices A	ting to Discovery Procedures under the Maine Unfair Trade

Submitted by the Department of the Attorney General pursuant to Joint Rule 204. Reference to the Committee on Judiciary suggested and ordered printed.

MILLICENT M. MacFARLAND, Clerk

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Presented by Representative LaVERDIERE of Wilton. Cosponsored by Senator RAND of Cumberland.

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

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- Sec. 1. 5 MRSA §211, sub-§3, ¶B, as enacted by PL 1969, c.
 577, §1, is amended to read:
- B. Require the disclosure of any documentary material which that would be privileged, or which contains trade seeret information, or which that for any other reason would not be required by a subpoena duces tecum issued by a court of this State.

Sec. 2. 5 MRSA §211, sub-§§4, 5 and 6 are enacted to read:

- Disclosure of documentary material. Documentary material demanded pursuant to this section must be produced for inspection, reproduction and copying during normal business hours at the principal office or place of business of the person served, in the county where such person resides or has a place of business, in Kennebec County if the person served is a nonresident or has no place of business within the State or at such other times and places as may be agreed upon by the person served and the Attorney General. Any book, record, paper, memorandum or other information produced by any person pursuant to this section may not unless otherwise ordered by a court of this State for good cause shown be disclosed to any person other than the authorized agent or representative of the Attorney General unless with the consent of the person producing the same, except that such material or information may be disclosed by the Attorney General in court pleadings or other papers filed in court.
 - 5. Motion for additional time, to modify or set aside or grant protective order. At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court upon motion for good cause shown may extend that reporting date or modify or set aside that demand or grant a protective order in accordance with the standards set forth in the Maine Rules of Civil Procedure Rule 26(c). The motion may be filed in the Superior Court of the county in which the person served resides or has a usual place of business or in Kennebec County.
 - 6. Cost of court reporter. At the request of the person under investigation or that person's attorney, any testimony taken pursuant to a demand or notice under this section must be taken before a court reporter authorized to serve as such under the laws of the State or recorded on a recording device. Upon request of either party, all such testimony taken or recorded must be transcribed by an authorized court reporter, and in that case the original transcript of that testimony must be preserved

	by the Attorney General. The cost of the taking or recording and
2	transcription must be paid by the State. In the event the
	Attorney General or some other party obtains judgment against the
4	party whose testimony is taken for a violation of section 207,
	the cost of the court reporter or recording and transcription
6	must be recovered by the State in such a judgment.
8	Sec. 3. 5 MRSA §211, 2nd ¶, as amended by PL 1973, c. 648, is
	repealed.
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	Sec. 4. 5 MRSA §211, 3rd ¶, as amended by PL 1973, c. 334, is
12	repealed.
14	Sec. 5. 5 MRSA §211, 4th ¶, as enacted by PL 1975, c. 529, is
	repealed.
16	C C F BEDCA 9011
	Sec. 6. 5 MRSA §211, as amended by PL 1975, c. 529, is
18	further amended by adding at the end a new indented paragraph to read:
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	The provisions of this section do not apply to any criminal
22	proceeding, nor is information obtained under the authority of
	this section admissible in evidence in any criminal prosecution
24	for substantially identical transactions.
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	SUMMARY
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	This bill amends the Attorney General's civil investigative
30	and discovery procedures under the Maine Unfair Trade Practices
	Act.