

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 409

S.P. 133

In Senate, January 25, 2005

### **An Act To Clarify the Superintendent of Insurance's Authority To Assess Civil Penalties**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MILLS of Somerset.

Cosponsored by Senators: PERRY of Penobscot, SULLIVAN of York, Representatives:  
CANAVAN of Waterville, VAUGHAN of Durham, WOODBURY of Yarmouth.

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

4 **Sec. 1. 24-A MRSA §12-A, sub-§1,** as amended by PL 2001, c.  
5 165, Pt. B, §1, is further amended to read:

6 **1. Civil penalty.** Civil penalties may be assessed against  
7 any person who:

8  
9 A. Violates any provision of this Title, Title 24 or any  
10 other law enforced by the superintendent;

11 B. Violates any rule lawfully adopted by the  
12 superintendent; or

13 C. Violates any lawful order of the superintendent that has  
14 not been stayed by order of the superintendent or the  
15 Superior Court.

16  
17 The Superior Court, upon an action brought by the Attorney  
18 General, may assess a civil penalty of not less than \$500 and not  
19 more than \$5,000 for each violation in the case of an individual  
20 and not less than \$2,000 and not more than \$15,000 for each  
21 violation in the case of a corporation or other entity other than  
22 an individual, unless the applicable law specifies a different  
23 civil penalty.

24  
25 The superintendent, following an adjudicatory hearing, may assess  
26 a civil penalty of up to \$500 for each violation in the case of  
27 an individual and a civil penalty of up to \$10,000 for each  
28 violation in the case of a corporation or other entity other than  
29 an individual, unless the applicable law specifies a different  
30 civil penalty. ~~The superintendent may assess a civil penalty  
31 only if the Attorney General elected not to pursue an action in  
32 Superior Court to seek civil penalties. The Attorney General  
33 shall notify the superintendent in writing whether or not the  
34 Attorney General elects to pursue an action in Superior Court  
35 within 90 days after receiving a request from the superintendent  
36 for such an action.~~ The superintendent shall notify the Attorney  
37 General or the Attorney General's designee of any such  
38 adjudicatory hearing at the time that the notice of hearing is  
39 issued by the superintendent.

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41  
42  
43 **SUMMARY**

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45 **46** This bill amends the Maine Revised Statutes, Title 24-A,  
47 section 12-A to delete the provision requiring the Superintendent  
48 of Insurance to give the Attorney General 90 days to elect to  
49 pursue a disciplinary action in Superior Court before the  
50 superintendent can proceed with an administrative action in the  
matter.

2           The bill adds language requiring the superintendent to give  
the Attorney General or the Attorney General's designee notice of  
4 any adjudicatory hearing scheduled in which civil penalties may  
be assessed.