

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

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

Sec. 1. 33 MRSA §1021, sub-§6 is enacted to read:

6. Transfer. "Transfer" does not include testamentary transfers, which are outside the scope of this chapter.

Sec. 2. 33 MRSA §1023, sub-§§1 and 2, as enacted by PL 1987, c. 699, §1, are amended to read:

1. **Civil action.** A civil action may be brought to obtain relief under this chapter by an elderly dependent person or that person's legal representative.

2. **Relief available; protected transfers.** When a court finds that a transfer of property was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property, the court shall refuse to enforce the transfer.

No relief obtained or granted under this section may in any way affect or limit the ~~rights~~ right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

Sec. 3. 33 MRSA §1025 is enacted to read:

§1025. Title practices

This chapter does not require that language showing compliance with this chapter be included in a deed and does not require that evidence of compliance with this chapter be recorded in the registry of deeds. Any attempt to record such evidence is void and has no effect on title.

Sec. 4. **Application.** This Act applies only to transfers of property that occur on or after the effective date of this Act.

See title page for effective date.

CHAPTER 239

S.P. 299 - L.D. 797

An Act to Impose Civil Penalties for Intentional Violations of the Maine Unfair Trade Practices Act

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

5 MRSA §209, last ¶, as enacted by PL 1987, c. 307, §2, is amended to read:

In any action by the Attorney General brought against the defendant for violating the terms of an injunction issued under this section, the court may make such orders or judgments as may be necessary to restore to any persons who have suffered any ascertainable loss by reason of such conduct found to be in violation of an injunction, any money or property, real or personal, which may have been acquired by means of such conduct. Each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is either unfair or deceptive is a violation for which a civil penalty of not more than \$10,000 shall be adjudged. The Attorney General may seek to recover civil penalties for violations of section 207 which are intentional and are unfair or deceptive. The Attorney General in seeking civil penalties has the burden of proving that the conduct was intentional and was unfair or deceptive notwithstanding any other statute which declares a violation of that statute an unfair trade practice. These penalties shall be applied in the carrying out of this chapter.

See title page for effective date.

CHAPTER 240

H.P. 669 - L.D. 917

An Act to Require Periodic Reports on the Percentage of the Gasoline Tax That Is Due to Boating Use

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

Sec. 1. 36 MRSA §2903-A, as amended by PL 1987, c. 793, Pt. A, §10, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than 2.00% of the total "gasoline tax" revenue. Based on this legislative "finding of fact" there is set aside 2.00% of the total excise tax, not to exceed \$2,000,000, on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft. From this 2.00% allocation shall be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of 2.00% after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation activities by the department, and it is the responsibility of the Commissioner of