

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1957 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES  
VOLUME 4

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1957

## Chapter 184. Unfair Sales Act.

### Sec. 1. Definitions.

**Purpose and constitutionality.**— This law comes within the well recognized police powers of the state, and has for its purpose the prevention of ruthless, unfair

and destructive competition, and to that extent is constitutional. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

### Sec. 2. Penalty.

**The selling below cost, alone, is not a violation** of any part of the Unfair Sales Act and is only effective when done "with intent to injure competitors or destroy competition." *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

The purpose of defendant in selling coffee at less than cost price for a period of three days in order to make friends and to create good will was legitimate and was not covered by the Unfair Sales Law. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

**Prima facie provisions of this section unconstitutional.**— While the Uniform

Sales Act is constitutional insofar as it seeks to prevent unfair competition and to that extent comes within the police powers of the state, the prima facie provisions of this section are unconstitutional. The prima facie rule established by this section lifts from the shoulders of the state the burden of proving the crime, and has, in fact, the practical effect of removing the presumption of innocence and creating a presumption of guilt which the defendant must rebut or disprove in order to escape conviction. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

### Sec. 3. Exceptions.

Cited in *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

### Sec. 4. Person injured may bring bill in equity.

**Part of this section unconstitutional.**— While the Uniform Sales Act is constitutional insofar as it seeks to prevent unfair competition and to that extent comes within the police powers of the state, the provisions of this section with regard to injunctive relief and subsection III of this section with regard to prima facie evidence, in civil actions, of intent to injure competitors and destroy competition are unconstitutional. The prima facie rule established by this section lifts from the shoulders of the state the burden of proving the crime, and has, in fact, the practi-

cal effect of removing the presumption of innocence and creating a presumption of guilt which the defendant must rebut or disprove in order to escape conviction. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

The proceedings for injunctive relief or for recovery of damages create a presumption of violation of the statute by merely showing the evidence of a conduct, the sale below cost, which is legal, proper and common practice. *Wiley v. Sampson-Ripley Co.*, 151 Me. 400, 120 A. (2d) 289.

## Chapter 185.

### Uniform Sales Act.

#### Formation of Contract.

### Sec. 4. Statute of frauds.

#### IV. THE ACCEPTANCE.

**Delivery of and payment for four carloads of potatoes** satisfied the statute of frauds under all oral contract for sale of

ten carloads of potatoes and contract was properly treated as single and entire. *Maine Potato Growers, Inc. v. H. Sacks & Sons*, 152 Me. 204, 126 A. (2d) 919.