

5 §209. INJUNCTION; PROCEDURES

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Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by section 207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the court may make such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice. At least 10 days prior to commencement of any action under this section, the Attorney General shall notify the person of his intended action, and give the person an opportunity to confer with the Attorney General in person or by counsel or other representative as to the proposed action. Notice shall be given the person by mail, postage prepaid, sent to his usual place of business, or if he has no usual place of business, to his last known address. The Attorney General may proceed without notice as required by this section upon a showing of facts by affidavit of immediate irreparable harm to the consumers of the State. The action may be brought in the Superior Court of the county in which such person resides or has his principal place of business, or may be brought in the Superior Court of Kennebec County. The said courts are authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter. Any district attorney or law enforcement officer, receiving notice of any alleged violation of this chapter, shall immediately forward written notice of the same with any other information that he may have to the office of the Attorney General. Any person who violates the terms of an injunction issued under this section shall forfeit and pay to the State, to be applied in the carrying out of this chapter, a civil penalty of not more than \$10,000 for each violation. For the purposes of this section, the court issuing such injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the State may petition for recovery of such civil penalty. In any action under this section where a permanent injunction is issued, the court may order the person against whom the permanent injunction has been issued to pay to the State the costs of the investigation of that person by the Attorney General and the costs of the suit, which funds shall accrue to the General Fund. [1975, c. 199, (AMD).]

In any action under this section where a permanent injunction is denied, the court may order the State to pay the costs of the defense of the prevailing party or parties and the costs of the suit upon a finding by the court that the action was frivolous. [1981, c. 339, (NEW).]

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. [1989, c. 239, (AMD).]

SECTION HISTORY

1969, c. 577, §1 (NEW). 1971, c. 229, (AMD). 1971, c. 338, §§1,2 (AMD). 1971, c. 622, §8 (AMD). 1973, c. 419, §§1,2 (AMD). 1973, c. 567, §20 (AMD). 1975, c. 199, (AMD). 1981, c. 339, (AMD). 1987, c. 307, §2 (AMD). 1989, c. 239, (AMD).

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