

MAINE STATE LEGISLATURE

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New Draft of: H. P. 694, L. D. 808
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1628

H. P. 1512

House of Representatives, May 20, 1981

Reported by Representative McKean from the Committee on
Transportation and Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend Certain Motor Vehicle Laws.

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

Sec. 1. 29 MRSA § 1, sub-§ 22, as amended by PL 1977, c. 696, § 210, is further amended to read:

22. **Wrecker.** “Wrecker” ~~shall mean~~ means a motor vehicle with hoisting apparatus and special equipment designed and used for towing wrecked or disabled vehicles or freeing vehicles stalled or stuck in snow, mud or sand ~~including any vehicle designed to carry one or more vehicles upon its own body.~~

Sec. 2. 29 MRSA § 341, sub-§ 1, as amended by PL 1975, c. 478, § 1, is further amended to read:

1. **Dealer.** “Dealer” means every person engaged in the business of buying, selling, offering to negotiate a sale or exchanging vehicles who has an established place of business for such purpose in this State, and to whom a current dealer ~~registration plates have license~~ has been issued by the Secretary of State.

Sec. 3. 29 MRSA § 341, sub-§§ 13 and 14 are enacted:

13. **Vehicle auction.** “Vehicle auction” means the sale or transfer of interest in a vehicle by means of bidding at a public or private sale.

14. **Vehicle auctioneer.** “Vehicle auctioneer” means any person who for gain

or compensation of any kind sells or offers for sale or exchange vehicles or any interest therein by means of soliciting bids at a public or private sale.

Sec. 4. 29 MRSA § 351, as repealed and replaced by PL 1977, c. 694, § 498, is further amended by adding at the end a new sentence to read:

Notwithstanding Title 4, section 1151, subsection 2 and Title 5, sections 10003 and 10051, the Administrative Court or the Secretary of State may suspend, revoke or deny any license or registration issued pursuant to this chapter.

Sec. 5. 29 MRSA § 351-A is enacted to read:

§ 351-A. Appeal from action of the Secretary of State

Any person aggrieved by the act of the Secretary of State to refuse to grant or renew a license under this subchapter or to suspend or revoke a license or by any other act of the Secretary of State which he alleges to be improper, unreasonable or unlawful under this subchapter may, within 30 days' notice of the decision, appeal to the Superior Court for a judicial review as provided in Title 5, chapter 375, subchapter VII.

Sec. 6. 29 MRSA § 354, sub-§ 1, first sentence, as enacted by PL 1973, c. 529, § 1, is repealed and the following enacted in its place:

No vehicle manufacturer, new vehicle dealer or used vehicle dealer may operate or permit to be operated a vehicle owned or controlled by the vehicle manufacturer, new vehicle dealer or used vehicle dealer using a dealer registration plate and no person shall operate a vehicle using a dealer registration plate except:

Sec. 7. 29 MRSA § 354, sub-§ 1, ¶¶ A, B and D, as enacted by PL 1973, c. 529, § 1, are amended to read:

- A. For the purpose of testing or adjusting ~~such~~ those vehicles;
- B. For purposes directly connected with the business of buying, servicing, selling, demonstrating or exchanging of ~~such~~ those vehicles;
- D. For the use of ~~such~~ those vehicles in funerals or in public parades when no charge is made for ~~such~~ the use;

Sec. 7-A. 29 MRSA § 354, sub-§ 1, ¶E, as enacted by PL 1973, c. 529, § 1, is repealed and the following enacted in its place:

- E. For the use of a full-time salesman, general manager, sales manager or service manager who is on the dealer's payroll, but not the immediate family or members of the household of a salesman, general manager, sales manager or service manager;

Sec. 8. 29 MRSA § 354, sub-§ 1, ¶F, as enacted by PL 1977, c. 481, § 12, is amended to read:

- F. For use by customers for the purpose of demonstrating ~~such~~ those vehicles for a ~~time~~ period not to exceed 7 days;

Sec. 9. 29 MRSA § 354, sub-§ 1, ¶¶ G and H are enacted to read:

G. A violation of paragraphs A to F is a traffic infraction; or

H. For use of vehicles by manufacturers or dealers provided the combined weight of the vehicle and any load does not exceed 10,000 pounds.

This paragraph does not apply to any vehicle which by design, exceeds 10,000 pounds without a load such as large trucks and trucks with permanently attached equipment.

In order for any vehicle having a net weight of more than 10,000 pounds to carry a load a permit must be issued pursuant to subsection 4.

Sec. 9-A. 29 MRSA § 354, sub-§ 1, as last amended by PL 1979, c. 559, § 2, is further amended by adding at the end a new paragraph to read:

This subsection is to be applicable to all new and used car dealers and holders of transporter registrations and plates issued pursuant to chapter 5, subchapter III-A.

Sec. 10. 29 MRSA § 354, sub-§ 3, as enacted by PL 1973, c. 529, § 1, is repealed and the following enacted in its place:

3. Wreckers. Anyone issued vehicle dealer or equipment dealer registration plates may operate a motor vehicle wrecker with a specially designed dealer plate attached to the wrecker if the wrecker is used only in direct connection with the service, repair or towing business of the dealer. Any wrecker to which a specially designed wrecker plate has been attached may not be used in connection with a commercial towing business.

The fee for a specially designed dealer wrecker plate is \$50 per plate annually, except that on application for additional plates applied for during the period between the first day of September and the 31st day of December in any year, the fee is \$25 per plate. The specially designed dealer wrecker plate is valid from January 1st to December 31st in any year. On and after December 25th of each calendar year, it is lawful to use and display on motor vehicles the specially designed plates issued for the next succeeding year. The certificate of registration for the specially designed wrecker plate shall be displayed at the dealer's place of business.

The number of specially designed dealer wrecker plates issued to each dealer shall be determined by the Secretary of State.

Sec. 11. 29 MRSA § 361, first ¶, as enacted by PL 1973, c. 529, § 1, is amended by adding after the 2nd sentence a new sentence to read:

Vehicles using loaner plates shall comply with section 354, subsection 1, paragraph H.

Sec. 12. 29 MRSA § 364, as enacted by PL 1979, c. 559, § 3, is amended to read:

§ 364. Enforcement

All state, county and local law enforcement officers, and all ~~agents, examiners and inspectors~~ appointed and deputized by the Secretary of State pursuant to section 52, shall expeditiously enforce the provisions of this subchapter ~~upon the request of the Secretary of State and section 832.~~

Sec. 13. 29 MRSA §§ 365, 366 and 367 are enacted to read:

§ 365. Odometer reading; changes; misrepresentation

1. **Misrepresentation.** A person or corporation, organization or other legal entity is guilty of misrepresentation if:

A. He disconnects, changes or tampers with the odometer of any motor vehicle with the intent to misrepresent or change the number of miles indicated thereon; or

B. He intentionally offers or exposes for sale a motor vehicle if the odometer reading differs from the number of miles the vehicle has been driven, without disclosing that the actual vehicle mileage is unknown or is known to be different than the odometer reading. Misrepresentation under this section is a Class D crime.

2. **Service and repair.** Nothing in this section prevents the service, repair or replacement of an odometer, provided the mileage indicated thereon is the same after the service, repair or replacement as before. When the odometer is incapable of registering the same mileage as after the service, repair or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any failure to attach such notice to the left door frame or any removal or alteration of such notice so affixed is a Class D crime.

3. **Penalty.** A violation of any provision of this section shall constitute a violation of Title 5, chapter 10, unfair practices in trade.

§ 366. Vehicle auctioneer's license

Notwithstanding any other provision of this Title, the following requirements apply to vehicle auctioneers only.

1. **License.** No person may engage in the business of auctioning vehicles without having first been issued a vehicle auctioneer's license by the Secretary of State in accordance with this subchapter. No vehicle auctioneer's license may be issued unless and until the Secretary of State has caused to be made a thorough inspection of the premises upon which the proposed business is to be conducted. Prior to the issuance of a vehicle auctioneer's license, the Secretary of State shall be satisfied that the proposed business has met all the requirements of this section and that all other general conditions and proposed methods of operation are suitable for carrying on the business.

2. Facilities. The vehicle auctioneer shall maintain proper facilities for display of vehicles being auctioned.

3. Records. The vehicle auctioneer shall maintain an office where books, records and files relating to the business shall be kept.

4. Authority of the Secretary of State. The Secretary of State or his duly authorized agent shall at all times have authority to:

- A. Attend all motor vehicle auctions;
- B. Inspect all books, records and files relating to the auction; and
- C. Inspect all vehicles which are the subject of the auction.

5. Fees. The annual fee for such license shall be the same as for dealers.

6. Limitations on license. The following are limitations on vehicle auctioneer licenses.

A. A vehicle auctioneer's license issued under this subchapter shall authorize business at the licensed premises only. The boundaries of the business shall be determined by the map or plan submitted with the application and approved by the Secretary of State, except any amended plan of enlargement or reduction of the licensed premises shall be approved by the Secretary of State.

B. No license issued under this section shall be transferable.

7. Penalty. Failure to obtain a vehicle auctioneer's license with the provisions of this section is a Class E crime.

§ 367. Record of transactions by vehicle auctioneers

1. Record of transactions. A vehicle auctioneer shall complete and maintain for a period of not less than 3 years after the date of sale or transfer of interest in the vehicle a record which shall consist of, but not be limited to, the following:

- A. A description of the vehicle;
- B. The name of the transferor and transferee;
- C. Date of transaction;
- D. Odometer reading at the time of sale or transfer of interest in the vehicle; and
- E. Any additional information which may be required by the official form provided by the Secretary of State.

A copy of the information required by paragraphs A to E shall be filed with the Secretary of State immediately following the sale or transfer of interest in the vehicle.

2. Availability of records. All books, records and files relating to the sale or transfer of interest in a vehicle shall at all times be available for inspection by the

Secretary of State or his duly authorized agents, duly authorized members of law enforcement agencies or representatives of the office of the Attorney General.

3. **Penalty.** Any violation of this section is a Class E crime.

Sec. 14. 29 MRSA § 582, sub-§ 4 is enacted to read:

4. **Fees and waivers.** If a driver license examination administered by the Department of Secretary of State requires an appointment and that appointment is not kept, an additional \$5 fee shall be assessed at the time of reappointment for examination. Upon notification of cancellation to the Department of Secretary of State, Division of Motor Vehicles, Driver Examination Section, 48 hours prior to the actual examination, the additional fee will be waived. This subsection does not apply to persons required to take an examination because of advanced age or physical disability.

Sec. 15. 29 MRSA § 832, as last amended by PL 1977, c. 694, § 515, is further amended by adding at the end 2 new paragraphs to read:

Notwithstanding Title 4, section 1151, subsection 2 and Title 5, sections 10003 and 10051, the Secretary of State shall have authority to suspend a motor vehicle dealer's license upon the dealer's failure to maintain insurance as required by this section.

The operation, or the release for operation, of any vehicle registered under chapter 5, subchapter III-A, not in compliance with this section is a Class E crime.

Sec. 16. 29 MRSA § 895-A, as last amended by PL 1977, c. 694, § 517, is repealed.

Sec. 17. 29 MRSA § 895-B is enacted to read:

§ 895-B. **Unclaimed vehicles left for repair**

1. **Vehicles unclaimed or abandoned for 30 days.** If a vehicle has been brought to or left at the premises of any place of business for garaging, repairing, parking or storing vehicles for the public and if the vehicle remains unclaimed for a period of 30 days and if the name and address of the owner of the vehicle are unknown, the operator of the place of business for garaging, repairing, parking or storing vehicles shall comply with section 2444, subsection 3.

2. **Vehicles unclaimed or abandoned for 90 days.** If a vehicle has been abandoned on private property or if a vehicle has been left by the owner or brought to the premises of any garage, auto body repair shop, service station or auto dealership for repair or storage at the request of the owner or pursuant to section 1111, and if the vehicle has been left on the property or premises for 90 days or more:

A. If the identity and location of the owner or holder of a security interest is known, the owner of the premises or property where the vehicle was brought or abandoned may notify the owner of the vehicle or holder of a security interest by registered mail, in accordance with subsection 3, of the place where the vehicle may be reclaimed; or

B. If the identity and location of the owner or holder of a security interest is not known, the owner of the premises or property where the vehicle was brought or abandoned shall publish, at least once in a newspaper of general circulation in the county where the premises or property is located, a notice, in accordance with subsection 3, of the place where the vehicle may be reclaimed.

3. Notification. Notification by registered mail to the owner of the vehicle or holder of a security interest or notification by publication shall clearly describe the vehicle and state that if the owner of the vehicle or holder of a security interest has not properly claimed it and paid all reasonable costs and charges for its towing, storage and repair work that may have been done on it within 30 days from the date of the notification or publication, ownership of the vehicle shall pass to the owner of the property or premises where the vehicle is located.

4. Evidence of compliance. A person who has complied with subsections 2 and 3 may present evidence of compliance to the Secretary of State.

5. Secretary of State to issue certificate. The Secretary of State shall issue certificates of title or letters of ownership as follows.

A. For pre-1975 model year vehicles or other vehicles not subject to chapter 21, upon presentation of sufficient evidence and payment of a \$5 fee, the Secretary of State may issue a letter of ownership indicating compliance with subsections 1 and 2.

B. For 1975 and newer vehicles subject to chapter 21, upon presentation of sufficient evidence and application for certificate of title in accordance with section 2364 and payment of a fee as set forth in section 2352, the Secretary of State may issue a certificate of title in accordance with chapter 21.

6. Rules. The Secretary of State may adopt rules necessary to assure the validity of claims submitted under this Title.

Sec. 18. 29 MRSA § 1111, 5th ¶, 2nd to 5th sentences, as amended, are repealed and the following enacted in their place:

Neither the State nor political subdivisions thereof nor the officer is liable for any damage that may be caused by such removal. The person bearing the expense of the removal, such as a garage or parking lot owner, or service station owner within 30 days of the removal shall, by registered mail, notify the owner of the vehicle or holder of a security interest, if such can be reasonably ascertained, of the location of the vehicle and mail a copy of the notice to the Chief of the State Police. If the owner of the vehicle or holder of a security interest is unknown, the person bearing the expense of the removal shall comply with section 2444, subsection 3. Removal of any part or accessory of the vehicle while it is in the possession or on the premises of the garage, parking lot or service station, without the express written permission of the owner or manager of the garage, parking lot or service station is a Class E crime and the person doing the removing of the part or accessory is liable to prosecution. This shall apply to removal, without written permission, of the vehicle itself and shall include any person or persons

whatsoever, including the owner of the vehicle. If the vehicle remains unclaimed for 90 days, the person bearing the expense of removal may comply with section 895-B, subsections 2, 3 and 4.

Sec. 19. 29 MRSA § 1369, last ¶ is amended to read:

It is unlawful to operate on any highway any motor vehicle which is registered in this State, if the front windshield or the window at either end of the driver's seat or the rear window at either end of the driver's seat or the rear window is composed of **or has attached to it any opaque substance, semi-transparent material or substance, such as signs, pictures or advertising** so as to obscure in any way the operator's vision of the highway or any intersecting highway. When the glass in either window is broken, the operator may make temporary repairs by placing an opaque substance therein temporarily until a reasonable opportunity is afforded for the replacement in accordance with this section. **The label attached to a window showing the price estimated mileage and other federally mandated information commonly known as the manufacturer's suggested retail price label is excepted from the limitation of this section.**

Sec. 20. 20 MRSA § 1655, first ¶, first sentence, as amended by PL 1979, c. 226, is further amended to read:

The operation on the highways of any vehicle loaded entirely with **bark, sawdust, firewood, sawed lumber, dimension lumber, pulpwood, wood chips, logs, soils, unconsolidated rock materials, bolts, farm produce, road salt, manufacturer's concrete products, building materials which absorb moisture during delivery originating and terminating within the State, or dump trucks, tractor dump trucks or transit-mix concrete trucks carrying highway construction materials; or any vehicle loaded with a majority of products requiring refrigeration, whether by ice or mechanical equipment, and on such vehicles when inspected by the Maine State Police, the number of the seal shall be recorded and the number of the new seal shall be recorded by the Maine State Police, the operation on the highways of any vehicle loaded with raw ore from mine or quarry to place of processing shall not be deemed to be in violation if the gross weight of such vehicle does not exceed 110% of the maximum gross weight for which such vehicle is then registered, nor 110% of the maximum gross weight permitted for such vehicle by section 1652, and provided that the maximum axle loads for these vehicles do not exceed 24,200 pounds for a single axle unit, 46,000 pounds for a tandem axle unit and 54,000 pounds for a tri-axle unit, except that 64,000 pounds shall be permitted on the tri-axle unit of a 4-axle motor vehicle hauling forest products until November 1, 1982.**

Sec. 21. 29 MRSA § 2363, as amended by PL 1979, c. 364, § 5, is further amended by adding a new paragraph after the 3rd paragraph to read:

The Secretary of State may, upon such documented and notarized evidence of ownership as he requires and upon payment of a \$20 fee, issue a warranty title to a Maine resident owner of an antique auto or horseless carriage. A warranty title shall denote that evidence made available to the Secretary of State indicates that there is no known liens or encumbrances against the vehicles.

Sec. 22. 29 MRSA § 2364, sub-§ 2, as last amended by PL 1977, c. 564, § 111, is further amended by adding after the first sentence a new sentence to read:

The dealer shall collect from the purchaser for this service an amount equal to the fee required by section 2352.

Sec. 23. 29 MRSA § 2373, as last amended by PL 1981, c. 110, § 29, is further amended to read:

§ 2373. Resale by dealer

If a dealer ~~buys a vehicle and displays or holds it a vehicle~~ for resale and procures the certificate of title or certificate of salvage from the owner or the lienholder within 10 days after delivery to him of the vehicle, he need not send the certificate to the Secretary of State but, upon transferring the vehicle to another person other than by the creation of a security interest, shall, within 20 days of the date of the ~~sale transfer~~, execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of the lienholder holding a security interest created or reserved at the time of the resale and the date of his security agreement, in the spaces provided therefor on the certificate or as the Secretary of State prescribes, and mail or deliver the certificate to the Secretary of State, or in the case of a security interest created or reserved at the time of the ~~sale transfer~~, the lienholder or assignee shall, within 20 days of the date of the ~~sale transfer~~, mail or deliver the certificate to the Secretary of State, with the transferee's application for a new certificate. A dealer shall not transfer ~~to any individual unless and until the original certificate of title is in his possession~~ the vehicle to any person unless he has a properly assigned certificate of title in his possession or unless such certificate is forthcoming from a lienholder who shall release the certificate to the dealer in accordance with section 2405.

Sec. 24. 29 MRSA § 2405, first ¶, as repealed and replaced by PL 1977, c. 294, § 15, is repealed and the following enacted in its place:

Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, he shall, within 10 days after demand and, in any event, within 20 days, execute a release of his security interest in the space provided on the certificate. The lienholder shall:

1. Release of title to lienholder. Release the title to the subordinate lienholder if one was named in the certificate;

2. Lien satisfied; title released. If the lien was satisfied in conjunction with the sale of the vehicle, release the title to the owner or to any person who delivers to the lienholder an authorization from the owner to receive the certificate; or

3. Certificate mailed or delivered to Secretary of State. Mail or deliver the certificate to the Secretary of State who will release the lienholder's rights from his records and on the certificate and mail or deliver the certificate to the owner named therein or to a person who has been authorized by the owner to receive the certificate.

Sec. 25. 29 MRSA § 2442, sub-§ 1, first sentence, as repealed and replaced by PL 1981, c. 110, § 39 is amended to read:

A person who ~~with fraudulent intent~~ commits any of the following is guilty of a Class D crime:

Sec. 26. 29 MRSA § 2443, sub-§ 1, ¶¶ A, B and C, as repealed and replaced by PL 1981, c. 110, § 40, are amended to read:

A. ~~With fraudulent intent, permits~~ Permits another, not entitled thereto, to use or have possession of a certificate of title or a certificate of salvage;

B. ~~Willfully fails~~ Fails to mail or deliver a certificate of title, certificate of salvage or application thereof to the Secretary of State within 10 days after the time required by this chapter;

C. ~~Willfully fails~~ Fails to deliver to his transferee a certificate of title or certificate of salvage within 10 days after the time required by this chapter; ~~or~~

Sec. 27. 29 MRSA § 2443, sub-§ 1, ¶ D, as repealed and replaced by PL 1981, c. 110, § 40 is repealed and the following enacted in its place:

D. Fails to have a correctly assigned clear title to a vehicle as required by section 2373; or

Sec. 28. 29 MRSA § 2443, sub-§ 1, ¶ E is enacted to read:

E. Violates any provision of this chapter, except as provided in section 2442.

Sec. 29. 29 MRSA § 2444, sub-§ 3, last sentence, as enacted by PL 1981, c. 110, § 41, is amended to read:

An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of ~~6 months~~ **90 days**, may comply with section ~~895-A~~ **895-B**.

FISCAL NOTE

This new draft will increase revenues for wrecker plates by \$18,120 each year. The increased revenues from the fee for 2nd examination appointments is expected to be \$2,500 to \$3,000.

STATEMENT OF FACT

The purposes of this new draft are as follows.

Section 1 clarifies the definition of wrecker.

Section 2 defines dealer in terms of his license, not whether he has received plates.

Section 3 defines vehicle auction and vehicle auctioneer.

Section 4 permits the Secretary of State to suspend, revoke or deny a license notwithstanding the Maine Administrative Procedure Act.

Section 5 provides an appeal procedure for the authority granted in section 4.

Section 6 clarifies the requirement for the use of dealer registration plates.

Sections 7 and 8 corrects language.

Section 9 adds a penalty provision and clarifies the use of dealer plates on trucks of a particular size and weight.

Section 10 provides dealer wrecker licensing.

Section 11 provides that persons using loaner plates must comply with the limits in Title 29, section 354, subsection 1, paragraph H.

Section 12 deletes the request by the Secretary of State for enforcement of dealer laws and permits inspectors to enforce the law.

Section 13 states what is misrepresentation in changing an odometer and provides for licensing of vehicle auctioneers.

Section 14 requires an additional fee for failure to keep a drivers license examination.

Section 15 permits the Secretary of State to suspend a motor vehicle dealer's license if the dealer fails to maintain required insurance.

Section 16 repeals a section replaced in the bill by Title 29, section 895-B.

Section 17 establishes procedures for unclaimed vehicles, notice to the owner and transfer of ownership to the person storing the vehicle.

Section 18 provides for removal of vehicles to garages and prohibits the removal of the vehicle or any of the equipment thereon while it is located there.

Section 19 prohibits attaching semitransparent material to windows which obscures the driver's vision.

Section 20 adds bark and sawdust to the group of material for which a weight tolerance is provided.

Section 21 provides for warranty title for antique or horseless carriages. The fee is \$20.

Section 22. Provides that the dealer may collect the title fee from the car buyer but only to the amount of the actual fee.

Section 23 permits a dealer who is displaying a vehicle for sale to delay filing a certificate of title until he transfers the vehicle to the transferee.

Section 24 provides for release of a security interest upon satisfaction of the security interest.

Sections 25 and 26 removes the requirement of a finding of fraudulent intent or willfulness when determining whether a violation of title law has occurred.

Sections 27 and 28 adds 2 violations to motor vehicle title law.

Section 29 decreases the period for which an operator must continue to store an unclaimed vehicle and corrects a conflict with Public Law 1981, chapter 110.