

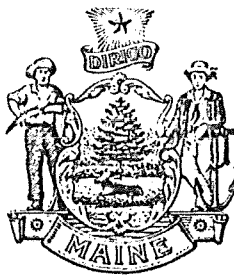
MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RICHARD S. COHEN
ATTORNEY GENERAL



79-148
STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

July 31, 1979

Representative Peter Cloutier
109th Legislature
State House
Augusta, Maine 04333

Dear Representative Cloutier:

You have requested an opinion from our office interpreting the Used Car Information statute, 10 M.R.S.A. § 1471 et seq. As I understand your request, you ask whether a motor vehicle dealer as defined by the Used Car Information law is required to remove an unexpired inspection sticker from a used motor vehicle sold for purposes other than transportation. You also ask whether the purchaser of a used motor vehicle may return the vehicle to the selling dealer and demand a refund of the purchase price, if a used vehicle sold for purposes of transportation does not pass inspection at the time of sale.

With regard to your first question relating to removal of an inspection sticker, section 1482 of Title 10 states:

"Nothing in this chapter shall apply to motor vehicles sold, offered for sale or transferred for a purpose other than transportation if that purpose is conspicuously written in the contract, but evidence outside the contract will be admissible to contradict such a contract provision."

There is no language in this provision or other provisions of the Used Car Information statute that specifically mandates

Representative Peter Cloutier
July 31, 1979
Page 2

that a used automobile dealer selling a used vehicle for purposes other than transportation remove the unexpired inspection sticker. Accordingly, in these transactions there is no legal requirement that the sticker be removed.

We should point out that, despite the absence of a legal requirement, sound business practices would militate in favor of removal of the sticker. For example, if the dealer writes on the contract that the vehicle is being sold for purposes other than transportation, i.e. "for junk" or "for repair by purchaser", but the purchaser was led to believe by the dealer or by other facts that the vehicle was fit for transportation at the time of sale, the consumer is permitted by section 1472 to introduce evidence in any court proceeding to contradict the contract provisions stating "for junk" or any other stated purpose. Consequently, it is possible that evidence that the vehicle had an unexpired inspection sticker attached to its windshield could be introduced in a court proceeding brought by a consumer to show that the consumer thought that he had purchased a vehicle fit for transportation at the time of sale. In view of this language in the Used Car Information law, it would be in the best interest of the dealer to remove an inspection sticker on a vehicle sold for purposes other than transportation.^{1/}

Your second question deals with whether a consumer may recover the purchase price of a vehicle that was sold for transportation, if the consumer can prove that the vehicle

^{1/} Although your question is concerned solely with the Used Car Information statute, we have attached a copy of 29 M.R.S.A. c. 22 as enacted by Chapter 464 of the Public Laws of 1979 for your information. Section 2507 of that legislation requires a dealer to remove a prior inspection sticker and replace it with a valid inspection certificate before the vehicle is released for operation upon the highways. We do not interpret this section to require a dealer to remove a prior sticker except when the vehicle is released for operation on the highway or to an establishment for body repair.

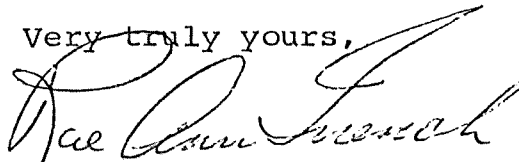
Representative Peter Cloutier
July 31, 1979
Page 3

did not meet the standards of the inspection law at the time of sale. As you know, the warranty imposed by section 1474, subsection 1 requires that a dealer guarantee that the vehicle he sells has been inspected in accordance with 29 M.R.S.A. § 2122 and that the vehicle is in the condition and meets the standards required by that statute. Section 1476 states that the dealer has to perform his obligations under the warranty. Under subsection 2 of section 1476, a dealer will be deemed to have failed to have performed his obligations under warranty if he transfers a vehicle that does not conform to the inspection warranty imposed by section 1474, subsection 1. If the dealer fails to perform the warranty recited in that subsection, the consumer has the right to the remedies provided in section 1476, subsection 3. One of these remedies includes the rescission of the contract and recovery of full consideration paid plus attorney fees. The only restriction on the consumer's right to recovery is stated in the final paragraph of section 1476:

"Before initiating a civil action pursuant to this paragraph, the purchaser must give the dealer written notice that the dealer has failed to perform his obligations under the warranty. The written notice shall be given to the dealer by registered mail."

Consequently, if a consumer can prove that the vehicle sold for purposes of transportation failed to pass inspection at the time of sale and if the consumer complies with the other statutory requirements including notice of suit to the dealer, the Used Car Information law states that rescission, recovery of consideration and attorney's fees is one of the remedies available to purchasers.

Very truly yours,



RAE ANN FRENCH
Assistant Attorney General
Consumer and Antitrust Division

RAF/sjn

Enc.