

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2189

S. P. 758

In Senate, January 2, 1974

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Cox of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Provide Information to Used Car Purchasers.

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

Sec. 1. R. S., T. 10, c. 215, additional. Title 10 of the Revised Statutes is amended by adding a new chapter 215, to read as follows:

CHAPTER 215

USED CAR INFORMATION

§ 1451. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Dealer. "Dealer" means a person who is engaged in the business of selling used motor vehicles primarily to purchasers who in good faith purchase such vehicles for purposes other than resale.

2. Mechanical defect. "Mechanical defect" means any defect in or damaged part of the mechanical, including the motor and transmission, electrical, or hydraulic system of a motor vehicle, and any defect in or damaged part of the body, chassis, suspension or other part of a motor vehicle.

3. Motor vehicle. "Motor vehicle" means an automobile or other motor vehicle, other than a motorcycle, truck, motorized camping vehicle or motorized mobile home, designed to transport not more than 10 individuals upon the public roads, streets and highways.

4. Used motor vehicle. "Used motor vehicle" means a motor vehicle which is offered for sale subsequent to:

A. A prior sale to a person who purchased it in good faith for purposes other than resale; or

B. Its use by a dealer, or by any person with the permission of a dealer, as a rental, driver education or demonstration motor vehicle, or for the personal transportation of the dealer or any of his employees for a period in excess of one day or for a distance in excess of 100 miles.

§ 1452. Warranty required for sale

1. No dealer shall sell or offer for sale a used motor vehicle in this State to any person for purposes other than resale, without a warranty which meets the requirements of this chapter, unless he sells or offers for sale that motor vehicle without any express warranty and with the notice provided for in subsection 2.

2. Windshield notice

A. In order to meet the requirements of subsection 1, a used motor vehicle which is sold without any express warranty shall have affixed to its front windshield a notice containing:

- (1) A statement that the motor vehicle is being sold without any express warranty, and that it is being sold "as is";
- (2) The name and address of the person who most recently inspected the motor vehicle in Maine and the date of that inspection; and
- (3) The following statement: "IF THIS AUTOMOBILE BREAKS DOWN OR NEEDS REPAIRS, THE BUYER WILL HAVE TO PAY THE ENTIRE COST OF SERVICING OR REPAIR".

B. The notice required under paragraph A shall be set forth in nontechnical language and easily read type. The statement set forth in paragraph A, subparagraph 3, shall be set forth prominently and be distinguishable from other information contained in the notice by size of type.

§ 1453. Terms of warranty

1. In order to meet the requirements of this chapter, a warranty shall be a written agreement entered into between a dealer who is selling a used motor vehicle and the purchaser of that motor vehicle under which the dealer undertakes to be legally bound to comply with the terms of that warranty, in accordance with this chapter, with respect to that motor vehicle.

2. In order to meet the requirements of this chapter, a warranty shall set forth any condition which the purchaser must meet with respect to periodic servicing of the motor vehicle during the duration of the warranty, and any such condition shall be applicable to all used motor vehicles of the same make, model and year of production sold by that dealer, and provide that:

A. The used motor vehicle to which it applies is free from mechanical defects which will require repair, or the replacement of parts, within the duration of the warranty;

B. The duration of the warranty is :

- (1) 3000 miles or 90 days from the date of delivery, whichever first occurs, which may be referred to as a class A warranty.
- (2) 2000 miles or 60 days from the date of delivery, whichever first occurs, which may be referred to as a class B warranty; or
- (3) 1000 miles or 30 days from the date of delivery, whichever first occurs, which may be referred to as a class C warranty;

C. The duration of the warranty will be extended by a number of miles equal to the number of miles the motor vehicle is driven during any period that the dealer or any person authorized by him has possession of the motor vehicle for the purpose of making repairs under the warranty and by a number of days equal to the number of days the dealer or any person authorized by him has possession of the motor vehicle for that purpose;

D. Any repair or replacement of parts made under the warranty will be performed in a workmanlike manner so as to render the motor vehicle free of the mechanical defect for which the repair or replacement was made;

E. The purchaser will not be liable for any costs, including costs of labor, parts, towing and any other service costs, incurred in the repair or replacement of parts performed by the dealer under the warranty, or by any person authorized by the dealer to perform repairs or the replacement of parts under the warranty;

F. The dealer will not permit any lien which may arise against the motor vehicle, in connection with any repair or replacement of parts under the warranty by a person authorized by the dealer to perform such repair or replacement, to remain in effect for more than 24 hours after the performance of such repairs or replacement, and

G. The purchaser is entitled to rescind the sale, deliver the motor vehicle to the dealer, and recover the full consideration, including the value of any property forming part of that consideration, reduced by the amount of any damage caused by the purchaser, unless such damage resulted primarily from a mechanical defect repairable under the warranty, during the duration of the warranty if the dealer fails to perform his obligations under the warranty or if there is a mechanical defect in the motor vehicle which renders it unsafe or inoperable.

§ 1454. Disclosure of information

1. No dealer shall sell any used motor vehicle unless he furnishes to the purchaser of that motor vehicle, before that purchaser has entered into a contract to purchase it, a written statement containing the information required under subsection 2.

2. The statement required by subsection 1 shall contain:

A. The location of the facility at which repairs, the replacement of parts and other service under the warranty may be performed;

B. A complete description of the used motor vehicle, including:

- (1) The make, model, year of manufacture and any identification or serial numbers of the motor vehicle;
- (2) The date on which that motor vehicle will be delivered to that purchaser and the maximum number of miles which will appear on the odometer at the time of delivery;
- (3) The mileage and date on which the warranty will terminate;
- (4) The name and address of the previous registered owner of the motor vehicle, the principal use to which the motor vehicle was put by that owner, such as personal transportation of previous owner, police car, rental car, taxi or other descriptive term, and the type of sale or means of acquisition by which the dealer acquired the motor vehicle, such as trade-in, sheriff's sale, repossession, auction or other descriptive term, to the extent that such information is available to the dealer from his own business records;
- (5) A statement of any mechanical defects known to the dealer, any repairs made by the dealer or at his direction following his acquisition of the motor vehicle for sale as a used motor vehicle, and a statement of any condition and mechanical defect which may exist at the time of sale and which may prevent the motor vehicle from functioning; and
- (6) A statement indicating whether or not the dealer has reason to believe that the motor vehicle has been involved in an accident resulting in substantial damage and has subsequently been repaired.

§ 1455. Performance under warranty

1. No dealer shall secure from the purchaser of a used motor vehicle with respect to which the dealer issues a warranty in accordance with this chapter any waiver, modification or limitation of the dealer's obligations under that warranty.

2. No dealer shall fail to perform his obligations under any warranty issued by him in accordance with this chapter. It shall not constitute a failure to perform such obligations for a dealer to refuse to act in accordance with the provisions of that warranty with respect to any damage to, or defect in, a used motor vehicle if the dealer can prove that the damage or defect resulted from unreasonable use or maltreatment of that motor vehicle by the purchaser.

3. A dealer shall be considered to have failed to perform his obligations under a warranty issued by him in accordance with this chapter, if:

A. He fails to perform any repair or replacement of parts required under the warranty within

- (1) 3 business days after the date on which the purchaser delivers the motor vehicle to him for such repair or replacement, or

(2) 30 calendar days after such date if necessary parts are not available to the dealer during the period set forth in subparagraph (1).

B. Having failed to perform his obligation to repair or replace parts under the warranty, as determined under paragraph A, he fails to permit the purchaser to rescind the contract of sale and fails to refund to the purchaser the full consideration paid for the motor vehicle, including the value of any property forming part of that consideration, reduced only by the amount of damage caused to that motor vehicle by the purchaser, other than damage resulting primarily from a mechanical defect repairable under the warranty; or

C. Fail in any other material respect to perform an obligation imposed on him by that warranty.

4. Any purchaser of a used motor vehicle, with respect to which a dealer has issued a warranty in accordance with this chapter, who suffers damage because the dealer fails to perform his obligations under that warranty may, in addition to any other remedy he may have, bring an action against that dealer for breach of contract and recover, in addition to other damages, the costs of the suit, reasonable attorney fees paid or incurred by him in connection with the controversy, and such consequential and punitive damages as the court before which the action is brought deems appropriate.

§ 1456. Dealer to maintain records

1. Each dealer shall maintain, for a period of not less than 3 years after the date on which a used motor vehicle is sold, a complete record relating to the sale of that motor vehicle including

A. The name and address of the purchaser;

B. A copy of the warranty and statement required under this chapter issued in connection with the sale of that motor vehicle; and

C. A record of any repairs, or the replacement of parts, performed under that warranty.

2. Any dealer who sells used motor vehicles shall, upon request of any law enforcement officer or representative of the Attorney General permit that officer or agent to inspect the records required to be maintained by subsection 1.

§ 1457. Violation

1. It shall be a violation of Title 5, chapter 10, Unfair Trade Practices Act, enforceable in accordance with that Act, for any dealer to violate section 1452, to issue a warranty in connection with the sale of a used motor vehicle, for purposes other than resale, which fails to meet the requirements of section 1453 or to fail to provide the statement required by section 1454 in connection with any such sale or willfully to falsify or omit any matter required in that statement.

2. Whoever, being obligated by this chapter to make and preserve any record or document under section 1455,

- A. Willfully fails to make and preserve any such record or document, or**
- B. Makes any such record or document containing any information which is false or misleading, with knowledge or with reason to believe that such information is false or misleading, shall be guilty of a misdemeanor and shall be punished by a fine not in excess of \$1,000 or by imprisonment for not more than 6 months, or by both.**

STATEMENT OF FACT

Many consumers buy used motor vehicles and are uninformed concerning the history of that vehicle. In many cases if the consumer had had information concerning the prior use of the vehicle he would not have purchased it or at least he would have been in a better position to determine whether or not he was paying a reasonable price. Also, in some cases, the terms of the warranty, the type and extent of the dealer's repairs, or the lack of any warranty are not made clear to the consumer at the time of purchase. Consumers generally have little recourse after they have purchased a used motor vehicle and can only rely on the dealer's good will. The purpose of this bill is to provide the consumer with more information prior to purchase so that he can determine the condition of the car that he is buying and the type and extent of warranty, if any, that he is receiving.