

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2560

S. P. 928

In Senate, March 6, 1974

Reported by the Majority from Committee on Business Legislation and
printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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 and includes a natural person, firm, corporation, partnership and any other legal entity that is engaged in the business of selling used motor vehicles and includes the officers, agents and employees thereof.

2. Mechanical defect. "Mechanical defect" means any defect, failure or malfunction of the mechanical system of a motor vehicle, including the motor and transmission, electrical, hydraulic or suspension systems, and any defect, damage, failure or malfunction that affects the safety or normal use of a motor vehicle.

3. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 10 individuals upon the public roads, streets and highways, except motorcycles as defined in Title 29, section

1, subsection 4, snowmobiles as defined in Title 12, section 1971, subsection 3 and any vehicles operated exclusively on a rail or rails.

4. Person. "Person" means and includes natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entities.

5. Used motor vehicle. "Used motor vehicle" means a motor vehicle that is offered for sale to a person after:

A. Such vehicle had been previously sold to a person who purchased it in good faith for purposes other than resale; or

B. Such vehicle had been used by a dealer or any other person for the personal transportation of persons, as a rental, driver education or demonstration motor vehicle, or for the personal transportation of the dealer or any person.

§ 1452. Exclusions

Nothing in this chapter shall apply to motor vehicles sold, offered for sale or transferred for a purpose other than transportation, such as junk, resale or other descriptive term, if that purpose is written in the contract for sale.

§ 1453. Warranty

1. No dealer shall sell, offer for sale or transfer a used motor vehicle to a person without a written warranty that conforms to the requirements of this chapter, except as provided in subsection 2.

2. A dealer may sell, offer for sale or transfer a used motor vehicle to a person without a written warranty, if the contract for sale of such used motor vehicle contains in conspicuous type:

A. A statement that the motor vehicle is being sold "AS IS"; and

B. The following notice: "IF THIS AUTOMOBILE BREAKS DOWN OR NEEDS REPAIRS, THE BUYER WILL HAVE TO PAY THE ENTIRE COST OF SERVICING OR REPAIRS."

3. The terms of a written warranty of a used motor vehicle not sold "AS IS" will be such terms as are agreed upon by the dealer and the purchaser of that vehicle, but every such warranty shall contain, fully and conspicuously disclosed, the following information:

A. The name and address of the warrantor and the name and address of the dealer who sold the vehicle, if different from that of the warrantor;

B. The name and address of the warrantor or dealer, if repairs, replacement of parts and other service under the warranty are to be performed at the dealer's or warrantor's place of business or, if such repairs, replacement of parts and other service under the warranty are not to be performed at such place of business, the name, address and other identifying information of each facility within a radius of 50 miles of the dealer's place of business

to which the vehicle may be brought for repairs, replacement of parts and other service under the warranty;

C. The date or number of days or mileage at which the warranty will terminate;

D. The parts or systems of the vehicle that are warranted against mechanical defects, or the parts or systems of the vehicle excluded from the warranty; and

E. A statement of what the warrantor will do in the event of a mechanical defect and at whose expense.

§ 1454. Disclosure of information

1. No dealer shall sell or transfer any used motor vehicle to any person, and no person shall sell or transfer any used motor vehicle to any dealer, unless he furnishes to such person or dealer a written statement containing the information required by subsection 2 before transferring title, accepting any part of the purchase price or making an agreement to sell, if any, whichever of these events occurs earliest.

2. The statement required by subsection 1 shall contain a complete description of the motor vehicle to be sold, including, but not limited to:

A. The make, model, year of manufacture and any identification or serial numbers of the motor vehicle;

B. The date on which the motor vehicle will be delivered to the purchaser and the maximum number of miles that will appear on the odometer at the time of delivery;

C. The name and address of the previous registered owner of the motor vehicle, unless such owner has directed in writing that his or her name not be disclosed, the principal use to which the motor vehicle was put by that owner, such as personal transportation, police car, daily rental car, taxi or other descriptive term, and the type of sale or other means 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 reasonably available to the dealer;

D. A statement of all mechanical defects and fire, water or substantial collision damage known to the dealer at the time of the sale; and

E. A statement indicating whether or not the vehicle was acquired as salvage or was acquired after having been rebuilt after damage from flood, fire, substantial collision or other cause.

§ 1455. Performance under warranty

1. No dealer shall fail to perform his obligation under any warranty issued by him in accordance with this chapter. It shall not constitute a failure to perform such obligations if a dealer refuses to act in accordance with the provisions of that warranty with respect to any mechanical defect that re-

sulted from unreasonable use or maltreatment of that motor vehicle by the purchaser.

2. 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 repair or replacement of parts required under the warranty within:

(1) Five calendar days after the date on which the purchaser delivers the motor vehicle to him for such repair or replacement; or

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

B. He fails to provide the purchaser with the use of an operating motor vehicle of substantially equivalent utility to the motor vehicle being repaired, at no cost, except gasoline and oil, beginning at the conclusion of the time stated in paragraph A, subparagraphs (1) and (2), and continuing until repairs have been completed; or

C. He fails in any other material respect to perform an obligation arising out of the warranty within a reasonable time.

3. If the dealer fails to perform his obligations under the warranty, the purchaser, in addition to any other rights he or she may have, shall have the right to:

A. Rescind the contract of sale and recover the full consideration paid for the motor vehicle, including the fair market 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 warranty; or

B. Recover damages in an amount equal to the difference between the fair market value of the motor vehicle in its actual condition at the time the dealer fails to perform his obligations under the warranty and the fair market value of the motor vehicle had it been as warranted. Such damages may be deducted from any balance due on the contract or recovered by the purchaser in a civil action.

§ 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; and

B. Copies of the warranty, if any, and a section 1454 disclosure statement issued in connection with the sale of that motor vehicle.

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. Violations

1. Any violation of this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

2. Whoever, being obligated by this chapter to make and preserve any record or document under section 1456:

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 \$500.

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. The new draft leaves the terms of a warranty, if one is provided, subject to agreement between the dealer and the purchaser, except for certain specified requirements.