

MAINE STATE LEGISLATURE

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(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1610

S. P. 544

In Senate, May 10, 1979

(Approved by a Majority of the Legislative Council pursuant to Joint Rule 27).

Referred to the Committee on Legal Affairs. Sent down for concurrence and ordered printed.

Presented by Senator Danton of York.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Indemnify Motor Vehicle Dealers for Legal Expenses Against the
Manufacturer.**

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

Sec. 1. 10 MRSA § 1174, sub-§ 3, ¶E, as enacted by PL 1975, c. 573, is amended to read:

E. To offer to sell or to sell any new motor vehicle at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price; provided, however, this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government ~~the State or any of its political subdivisions~~; and provided, further, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by said dealer in a driver education program; and provided further, that this paragraph shall not apply so long as a manufacturer, distributor, wholesaler or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. This paragraph shall not apply to sales by a manufacturer, distributor or wholesaler to the United States Government or any agency thereof.

Sec. 2. 10 MRSA § 1175, as enacted by PL 1975, c. 573, is amended by adding at the end the following new paragraph:

In any action brought against the dealer on a product liability claim in which it is later determined that it is a manufacturer's liability, then the dealer shall be entitled, from the manufacturer, its cost incurred in defending the action, together with reasonable attorney fees. Reasonable attorney fees shall be determined by the value of the time reasonably expended by the attorney.

Sec. 3. 10 MRSA § 1176 as enacted by PL 1975, c. 573 is amended by adding at the end the following new paragraph:

In any claim that is disapproved by the manufacturer, and the dealer brings legal action to collect the disapproved claim and is successful in the action, the court shall award the dealer the cost of the action together with reasonable attorney fees. Reasonable attorney fees shall be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the dealer.

STATEMENT OF FACT

The purposes of this bill are:

1. To provide motor vehicle dealers with an opportunity to bid on state vehicles, preventing the vehicle manufacturer from competing with his own dealer. Since the dealer will be paying a competitive price, this should not affect the state's income from the sale;

2. To allow a dealer who is sued on a product liability claim to be reimbursed by the manufacturer when the defect is the responsibility of the manufacturer rather than the dealer. Presently, dealers are often sued because of their accessibility and they are forced to engage their own attorney and defend against the suit even when the manufacturer is the one liable for the defect; and

3. To permit dealers to bring legal action against the manufacturer for costs to the dealer for labor and parts under the warranty agreement to collect the cost of the action, together with attorney's fees. Since most of the warranty claims are for less than \$100, unless the dealers can recover costs of bringing the action, it is not economically feasible for them to bring the action.