

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-857)
109TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1667, L.D. 1776, Bill,
"AN ACT to Revise and Clarify Certain Provisions of the Motor
Vehicle Laws."

Amend the Bill by striking out everything after the
enacting clause and inserting in its place the following:

Sec. 1. 29 MRSA §341, sub-§10-A is enacted to read:

10-A. Used motor vehicle. "Used motor vehicle" means a
motor vehicle that either has been once registered or is not
covered by a manufacturer's new car warranty.

Sec. 2. 29 MRSA §342, first sentence, as amended by PL 1975,
c. 478, §6, is further amended to read:

No person shall engage in the business of buying, selling
, exchanging, offering to negotiate, negotiating or advertising
a sale of any vehicle without having been issued a license under
this subchapter.

Sec. 3. 29 MRSA §342, 2nd ¶, as repealed and replaced by
PL 1977, c. 564, §106, is amended to read:

A person is "engaged in the business of buying, selling
, exchanging, offering to negotiate, negotiating or advertising
the sale of a vehicle" if that person buys motor vehicles for the
purpose of resale, sells or offers to negotiate the sale of more
than 5 motor vehicles in any 12-month period, or displays or
permits the display of 3 or more motor vehicles ←

, for sale at any one time or within any 30-day period
upon premises owned or controlled by him, unless that person has
owned and registered each vehicle for at least 6 months.

Sec. 4. 29 MRSA §342, as last amended by PL 1977, c. 564,

section /106, is further amended by adding a new paragraph at the end to read:

Financial institutions as defined in ^{Title} ~~9-B,~~ ^{section} ~~131,~~ subsections ~~17 and 17-A,~~ are exempted from this section when selling vehicles repossessed pursuant to chapter 21. This exception applies only to financial institutions which use full-time employees of the institutions to repossess and sell vehicles. Financial institutions that fail to use full-time employees for the purpose established in this section shall use dealers licensed by the Secretary of State, pursuant to chapter 5, ~~Sub Chapter 111-A.~~

Sec. 5. 29 MRSA §343, sub-§3 is enacted to read:

3. Penalty. Failure to comply with this section is a Class E crime.

as enacted by PL 1973, c. 529, §1,

Sec. 6. 29 MRSA §354, sub-§2/ is repealed and the following ^{its} enacted in/place:

2. Equipment dealers. Equipment dealer plates may be attached to the vehicles described in ^{paragraphs A to P} ~~for demonstration,~~ emergency and service purposes only, unless otherwise prohibited for use on the highways:

A. Motorized graders;

B. Power shovels;

C. Front-end loaders;

D. Backhoes;

E. Rubber tired bulldozers;

F. Large 4-wheel drive type trucks and snowplows;

G. Motor cranes;

- H. Road sweepers;
- I. Sidewalk cleaners;
- J. Log skidders;
- K. Other related heavy equipment;
- L. Farm tractors;
- M. Self-propelled combines;
- N. Harvesters;
- O. Other related farm machinery; and
- P. Any equipment or motor vehicle taken in trade.

A specially designed equipment dealer plate may be attached to a motor truck used for service in direct connection with the equipment dealer business. Any motor truck to which a specially designed equipment dealer plate has been attached shall not be used for any purpose except in the service of equipment directly connected with the business of the equipment dealer.

The Division of Motor Vehicles within the Department of the Secretary of State shall be reimbursed from the Highway Fund \$1 for each plate issued in 1980 under this section for costs incurred by the Division to obtain the plates.

Sec. 7. 29 MRSA §355, sub-§7 is enacted to read:

7. Invoice. ^{An} Invoice disclosing from whom vehicle was obtained. If vehicle was obtained from another dealer, the dealer's name must be disclosed.

Sec. 8. 29 MRSA §355, last ¶, as ^{last} amended by PL 1975, c. 546, §2, is further amended to read:

Such ~~reced~~ records shall at all times be available for inspection by the Secretary of State, or his duly authorized agents or duly authorized members of law enforcement agencies or representatives of the Attorney General's office. A copy of the

records, except the information required by ~~subsection~~ subsec-
tions 6 and 7, shall be filed with the Secretary of State's
office immediately following the sale or disposition of the
vehicle.

Sec. 9, 29 MRSA §1370, 3rd ¶ as last amended by PL 1973,
c. 709, §4 is amended to read:

Motor vehicles of the Bureau of Civil Emergency Prepared-
ness and other motor vehicles used to perform public services
of an emergency nature, whether publicly or privately owned,
may be identified by windshield stickers bearing the name or
service emblem of the agency authorized to act therein; ~~if~~
~~affixed thereto in accordance with the following paragraph.~~
A motor vehicle may display no more than one sticker on its
windshield to facilitate parking or entry identification.

Sec. 10, 29 MRSA §2292, sub-§5 is enacted to read:

5. Computation. In computing the number of convictions
and adjudications, all convictions and adjudications shall result
from offenses occurring subsequent to March 2, 1974, and at least
one of the convictions or adjudications shall result from an
offense occurring subsequent to March 2, 1979.

Sec. 11, 29 MRSA §2442, sub-§1, as amended by PL 1977, c. 294,
§16, is further amended to read:

1. Penalty. A person who, with fraudulent intent:

A. Alters, forges or counterfeits a certificate of title;

B. Alters or forges an assignment of a certificate of title,
or an assignment or release of a security interest, on a
certificate of title or a form the Secretary of State pre-
scribes;

C. Has possession of or uses a certificate of title know-
ing it to have been altered, forged or counterfeited; or

D. Uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title; or

E. Sells or exchanges, offers to sell or exchange or gives away any certificate of title or any manufacturer's vehicle identification number plate of any vehicle;

~~shall be punished by a fine of not less than \$500, nor more than \$1000, or by imprisonment for not less than one year nor more than 5 years, or by both~~ guilty of a Class D crime.

Sec. 12. 29 MRSA §2442, sub-§2 is enacted to read:

2. Examination of identification numbers; impounding of vehicle. Any motor vehicle inspector employed within the Department of the Secretary of State and whose duty it is to enforce chapter 5, subchapter III-A, and chapter 21, may examine the identification numbers of any vehicle. It is unlawful for any person to fail or refuse to allow the examination.

When an inspector has reasonable grounds to believe that the identification numbers are fictitious or altered, or that a violation of law has taken place, he may at any time impound the vehicle and hold it until the violation has cleared.

Sec. 13. 29 MRSA §2507, 2nd and 3rd sentences as enacted by P.L. 1979, c. 464, §5 are repealed and the following enacted in their place:

If the vehicle bears a prior inspection certificate, the certificate shall be removed. Any vehicle that is mechanically safe but requires body repairs may be operated by the owner or his employee without a valid certificate of inspection for the sole purpose of transporting the vehicle to an establishment for body repair.

Sec. 14. 29 MRSA §2507-A is enacted to read:

§2507-A. For sale Vehicles and Vehicle inspection

1. Motor vehicles required to meet standard. Except as provided in Section 2507 regarding vehicles requiring body repair, no dealer or holder of a transporter registration certificate in new or used motor vehicles may permit any vehicle under his ownership or control to be sold or transferred to another person or legal entity for operation upon the highways unless the vehicle meets the inspection standards required by Section 2502 and the rules and regulations promulgated thereunder.

2. Dealer liable. It is no defense to this section that the dealer or holder of a transporter registration certificate complied with Section 2507 or did not know that the vehicle failed to meet the requirement of Section 2502 and the rules and regulations promulgated thereunder.

3. Penalty. Notwithstanding Section 2521, a violation of this section shall constitute a civil violation and shall be punished by a fine of not more than \$1000 for each violation. In addition to the civil penalty provided in this section, any violation of this section shall constitute a violation of statutory provisions governing unfair trade practices, ^{Title 5,} chapter 10.'

~~STATEMENT OF FACT~~

The purpose of this ~~Amendment~~ is to revise the provisions relating to motor vehicle dealers, certificates of title and motor vehicle inspection. The revisions are described below.

Motor vehicle dealers

The statutory provisions relating to motor vehicle dealers are clarified and defined more carefully to prevent abuse of privileges accorded to vehicle dealers. In order to accomplish this purpose, this ~~Amendment~~:

1. defines a used motor vehicle. Presently, there is no definition of a used motor vehicle in the statutes;
2. defines any person as a motor vehicle dealer who negotiates the sale of or advertises more than 5 motor vehicles in any 12-month period. At the present time, people are negotiating the sale of and advertising vehicles for sale in competition with licensed dealers. In many cases, these "unlicensed" vehicle dealers derive substantial incomes from their activities. In addition, there is often a loss of sales and excise taxes, and certificates of title are not properly established;
3. ~~requires~~ financial institutions, in order to be exempt from the license provisions for motor vehicle dealers, to use full-time employees of these institutions to sell repossessed vehicles or to use licensed motor vehicle dealers. At the present time, repossession agencies sell repossessed motor vehicles or negotiate the sale of repossessed motor vehicles without a motor vehicle dealer's license. These agencies compete with license dealers, but the agencies are not required to possess the facilities, provide warranties,

provide certificates of title, collect sales and excise taxes or comply with other statutory provisions applied to licensed dealers. Not only is income lost to the ~~the~~ state, but there is no record of the vehicles to protect users from purchasing vehicles without a clear title or vehicles that are stolen;

4. ~~pro~~vides a penalty for any motor vehicle dealer who does not comply with the dealer law. At ~~the~~ present, there is no penalty for violation of the motor vehicle dealer statutes;

5. ~~re~~stricts motor vehicle equipment dealers to one specially designed plate ^{may} ~~that~~ be attached by each dealer to ^a vehicle used to service \longleftrightarrow equipment; and

6. ~~re~~quires a motor vehicle dealer to maintain as part of his records the invoices disclosing the source of each vehicle that he sells to including the name of another dealer if the vehicle is obtained from another dealer.

Certificates of Title

This ~~re~~vises the penalty for violation of the certificate of title provisions of the law. The penalty is a ~~class~~ D crime which is similar to the present penalty.

Motor Vehicle Inspection

This ~~re~~vises the vehicle inspection law by:

1. ~~au~~thorizing motor vehicle inspectors employed by the Secretary of State to impound vehicles that, upon examination and reasonable grounds, are believed to be stolen; and
2. ~~es~~tablishing that motor vehicle dealers are liable and responsible for vehicles that they sell and that fail to

meet the state's inspection standard. In a number of cases, some used car dealers who do not have inspection mechanics have sold vehicles that fail to meet the inspection standard. The motor vehicle inspection mechanic has been held liable, but the dealer has not been penalized. In some cases, collusion between a dealer and an inspection mechanic has been suspected.

In addition to these changes, this amendment has excluded the provisions of the bill pertaining to the operation of vehicles under the influence of alcohol or drugs. The ~~Judiciary~~ ~~Committee~~ has similar legislation before it.

This / ^{amendment} also permits a parking or entry identification sticker to appear on the windshield of a vehicle.