

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 808

H. P. 694

House of Representatives, February 11, 1981

Referred to the Committee on Transportation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Carroll of Limerick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend Certain Motor Vehicle Laws.

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

Sec. 1. 29 MRSA § 1, sub-§ 22, as amended by PL 1977, c. 696, § 210, is further amended to read:

22. **Wrecker.** "Wrecker" shall mean a motor vehicle with hoisting apparatus and special equipment designed and used for towing wrecked or disabled vehicles or freeing vehicles stalled or stuck in snow, mud or sand ~~including any vehicle designed to carry one or more vehicles upon its own body~~

Sec. 2. 29 MRSA § 351, as repealed and replaced by PL 1977, c. 694, § 498, is repealed and the following enacted in its place:

§ 351. **Suspension and revocation**

The Administrative Court or the Secretary of State may suspend, revoke or deny any license or registration issued pursuant to this chapter.

Sec. 3. 29 MRSA § 351-A is enacted to read:

§ 351-A. **Appeal from action of the Secretary of State**

Any person aggrieved by the action of the Secretary of State in refusing to grant or renew a license under this subchapter or in suspending or revoking a license or by any other action of the Secretary of State, which is alleged to be improper,

unreasonable or unlawful under this subchapter, may, within 10 days' notice of the decision, appeal to the Superior Court for a judicial review, as provided in Title 5, chapter 375, subchapter VII.

Sec. 4. 29 MRSA § 354, sub-§ 1, first sentence, as enacted by PL 1973, c. 529, § 2, is repealed and the following enacted in its place:

No vehicle manufacturer, new vehicle dealer or used vehicle dealer may operate or permit to be operated a vehicle owned or controlled by the vehicle manufacturer, new vehicle dealer or used vehicle dealer using a dealer registration plate, except under the following conditions:

Sec. 5. 29 MRSA § 354, sub-§ 1, ¶¶ B and E, as enacted by PL 1973, c. 529, § 1, are repealed and the following enacted in their place:

B. For purposes of buying, servicing, selling, demonstrating or exchanging of such vehicles;

E. For use of full-time salesmen, general managers, sales managers or service managers who are on the dealer's payroll as such, but not the immediate family or members of the household of the salesmen, general managers, sales managers or service managers.

Sec. 5-A. 29 MRSA § 354, sub-§ 1, ¶F, as enacted by PL 1977, c. 481, § 12, is amended to read:

F. For use by customers for the purpose of demonstrating such vehicles for a time period not to exceed 7 days; and

Sec. 6. 29 MRSA § 354, sub-§ 1, ¶G is enacted to read:

G. For use of such vehicle by the manufacturer or dealer if the vehicle does not exceed 6,000 pounds gross vehicle weight; except that the weight limitation does not apply if:

- (1) The empty vehicle exceeds 6,000 pounds gross vehicle weight;
- (2) The vehicle by design exceeds 6,000 pounds gross vehicle weight; or
- (3) A permit is issued pursuant to subsection 4.

This paragraph shall be applicable to all new car dealers, used car dealers and holders of transporter registrations and plates issued by the Secretary of State under this subchapter. Violation of this paragraph is a Class E crime.

Sec. 7. 29 MRSA § 354, sub-§ 1, as last amended by PL 1979, c. 559, § 2, is further amended by adding at the end a new paragraph to read:

Violation of this subsection is a traffic infraction.

Sec. 8. 29 MRSA § 354, sub-§ 1-A, is enacted to read:

1-A. Dealer registration plate. No person may operate a vehicle using a dealer registration plate, except under the conditions listed under subsection 1.

Violation of this subsection is a traffic infraction.

Sec. 9. 29 MRSA § 354, sub-§ 3, as enacted by PL 1973, c. 529, § 1, is repealed.

Sec. 10. 29 MRSA § 361, first ¶, 2nd sentence, as enacted by PL 1973, c. 529, § 1, is amended to read:

Loaner plates may be used on vehicles owned by the holder of a loaner registration license for the sole purpose of loaning such vehicles to customers when the customer's properly registered vehicle is disabled and in the garage for repairs, **notwithstanding the provisions of section 354, subsection 1, paragraph G.**

Sec. 11. 29 MRSA § 364, is enacted by PL 1979, c. 559, § 3, is amended to read:

§ 364. Enforcement

All state, county and local law enforcement officers, and all ~~agents, examiners and~~ inspectors appointed and deputized by the Secretary of State pursuant to section 52, shall expeditiously enforce the provisions of this subchapter ~~upon the request of the Secretary of State.~~

Sec. 12. 29 MRSA § 832, as last amended by PL 1977, c. 694, § 515, is further amended by adding at the end 3 new paragraphs to read:

Notwithstanding section 351, the Secretary of State shall, pursuant and subject to chapter 17, suspend such transporter, loaner, vehicle dealer registration, plates and license upon written notice from the company that the insurance policy or bond required is being cancelled. No liability policy or bond required under this section may be cancelled until at least 10 days after notice of cancellation of the insurance or bond so certified is filed in the office of the Secretary of State. He shall likewise suspend the transporter, loaner, vehicle dealer registration, plates and license upon the expiration of certification on file and shall not restore the registration, plates and license until new certification of coverage is filed by the company.

The operation, or the release for operation, of any vehicle registered under chapter 5, subchapter III-A, not in compliance with this section, shall be a Class E crime.

The enforcement of this section shall be as provided for in section 364.

Sec. 13. 29 MRSA § 895-A, as last amended by PL 1977, c. 694, § 517, is repealed.

Sec. 14. 29 MRSA § 895-B is enacted to read:

§ 895-B. Unclaimed vehicles left for repair

1. Vehicles unclaimed or abandoned for 30 days. If a vehicle has been brought to or left at the premises of any place of business for garaging, repairing, parking or storing vehicles for the public and if the vehicle remains unclaimed for a period of 30 days and if the name and address of the owner of the vehicle are unknown,

the operator of the place of business for garaging, repairing, parking or storing vehicles shall comply with section 2444, subsection 3.

2. Vehicles unclaimed or abandoned for 6 months. If a vehicle has been abandoned on private property or if a vehicle has been left by the owner or brought to the premises of any garage, auto body repair shop, service station or auto dealership for repair or storage at the request of the owner or pursuant to section 1111, and if the vehicle has been left on the property or premises for 6 months or more:

A. If the identity and location of the owner or holder of a security interest is known, the owner of the premises or property where the vehicle was brought or abandoned may notify the owner of the vehicle or holder of a security interest by registered mail, in accordance with subsection 3, of the place where the vehicle may be reclaimed; or

B. If the identity and location of the owner or holder of a security interest is not known, the owner of the premises or property where the vehicle was brought or abandoned may publish, at least once in a newspaper of general circulation in the county where the premises or property are located, a notice, in accordance with subsection 3, of the place where the vehicle may be reclaimed.

3. Notification. Notification by registered mail to the owner of the vehicle or holder of a security interest or notification by publication shall clearly describe the vehicle and state that if the owner of the vehicle or holder of a security interest has not properly claimed it and paid all reasonable costs and charges for its towing, storage and repair work that may have been done on it within 30 days from the date of the notification or publication, ownership of the vehicle shall pass to the owner of the property or premises where the vehicle is located.

4. Evidence of compliance. A person who has complied with subsections 2 and 3 may present evidence of compliance to the Secretary of State.

5. Secretary of State to issue certificate. The Secretary of State shall issue certificates of title or letters of ownership as follows.

A. For pre-1975 model year vehicles or other vehicles not subject to chapter 21, upon presentation of sufficient evidence and payment of a \$5 fee, the Secretary of State may issue a letter of ownership indicating compliance with subsections 1 and 2.

B. For 1975 and newer vehicles subject to chapter 21, upon presentation of sufficient evidence and application for certificate of title in accordance with section 2364 and payment of a fee as set forth in section 2352, the Secretary of State may issue a certificate of title in accordance with chapter 21.

6. Secretary of State to adopt rules and regulations necessary to assure the validity of claims submitted under this Title.

Sec. 15. 29 MRSA § 1111, 5th ¶, 2nd to 5th sentences, as amended, are repealed and the following enacted in their place:

Neither the State nor political subdivisions thereof nor the officer may be liable for any damage that may be caused by such removal. The person bearing the expense of the removal, such as a garage or parking lot owner, or service station owner within 30 days of the removal shall, by registered mail, notify the owner of the vehicle or holder of a security interest, if such can be reasonably ascertained, of the location of the vehicle and mail a copy of the notice to the Chief of the State Police. If the owner of the vehicle or holder of a security interest is unknown, the person bearing the expense of the removal shall comply with section 2444, subsection 3. Removal of any part or accessory of the vehicle while it is in the possession or on the premises of the garage, parking lot or service station, without the express written permission of the owner or manager of the garage, parking lot or service station shall be considered a misdemeanor and the person doing the removing of the part or accessory shall be liable to prosecution. This shall apply to removal, without written permission, of the vehicle itself and shall include any person or persons whatsoever, including the owner of the vehicle. If the vehicle remains unclaimed for 6 months, the person bearing the expense of removal may comply with section 895-B, subsections 2, 3 and 4.

Sec. 16. 29 MRSA § 2373, as amended by PL 1977, c. 294, § 10, is further amended to read:

§ 2373. Resale by dealer

If a dealer buys a vehicle or acquires it by consignment and holds it for resale and procures the certificate of title from the owner or the lienholder within 10 days after delivery to him of the vehicle, he need not send the certificate to the Secretary of State but, upon transferring the vehicle to another person other than by the creation of a security interest, shall, within 20 days of the date of the sale, execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of the lienholder holding a security interest created or reserved at the time of the resale and the date of his security agreement, in the spaces provided therefor on the certificate or as the Secretary of State prescribes, and mail or deliver the certificate to the Secretary of State, or in the case of a security interest created or reserved at the time of the sale, the lienholder or assignee shall, within 20 days of the date of the sale, mail or deliver the certificate to the Secretary of State, with the transferee's application for a new certificate. A dealer shall not transfer to any individual unless ~~and until the original certificate of title is in his possession~~ he has a clear title to a vehicle.

Sec. 17. 29 MRSA § 2405, first ¶, as repealed and replaced by PL 1977, c. 294, § 15, is repealed and the following enacted in its place:

Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, he shall, within 10 days after demand and, in any event, within 20 days, execute a release of his security interest in the space provided on the certificate. The lienholder shall:

1. **Release of title to lienholder.** Release the title to the subordinate lienholder if one was named in the certificate;

2. **Lien satisfied; title released.** If the lien was satisfied in conjunction with the sale of the vehicle, release the title to the owner or to any person who delivers to the lienholder an authorization from the owner to receive the certificate; or

3. **Certificate mailed or delivered to Secretary of State.** Mail or deliver the certificate to the Secretary of State who will release the lienholder's rights from his records and on the certificate and mail or deliver the certificate to the owner named therein or to a person who has been authorized by the owner to receive the certificate.

Sec. 18. 29 MRSA § 2443, as amended by PL 1979, c. 663, § 185, is repealed and the following enacted in its place:

§ 2443. **Other offenses**

1. **Penalty.** A person who commits any of the following acts is guilty of a Class E crime:

A. **Permits another, not entitled thereto, to use or have possession of a certificate of title;**

B. **Fails to mail or deliver a certificate of title or application thereof to the Secretary of State within 10 days after the time required by this chapter;**

C. **Fails to deliver to his transferee a certificate of title within 10 days after the time required by this chapter;**

D. **Fails to have a properly assigned clear title to a vehicle as required under section 2373; or**

E. **Violates any provision of this chapter, except as provided in section 2442.**

STATEMENT OF FACT

The purposes of this bill are as follows.

Section 1 changes the definition of a wrecker.

Section 2 permits the Secretary of State to suspend, revoke or change any dealer license or registration, which can presently only be done by the Administrative Court.

Section 3 allows a party aggrieved by the Secretary of State's refusal to grant or renew a license to appeal to the Superior Court.

Sections 4 to 8 more clearly define the allowable use of dealer plates, including making misuse of the plates an infraction for the operator as well as the dealer.

Section 9 repeals the provision dealing with operation of wreckers with dealer registration plates.

Section 10 prohibits the indiscriminate use of loaner plates on commercial vehicles hauling interstate and intrastate.

Section 11 removes registration agents and driver license examiners from the statute dealing with enforcement of the dealers and transporters registration law.

Section 12 enables the Secretary of State to suspend dealer registration on cancellation or expiration of insurance.

Sections 13 and 14 establish procedures for obtaining a certificate of title or letter of ownership for unclaimed or abandoned vehicles.

Section 15 removes ambiguities concerning the notification of an owner of an abandoned vehicle and disposal of the vehicle.

Section 16 sets forth procedures for filing application for certificate of title by a dealer for vehicles acquired by consignment.

Section 17 explicates the requirements for the release of security interests on certificates of title.

Section 18 provides a penalty for a dealer not having properly assigned clear title to a vehicle prior to resale and brings the language of the statute into agreement with other penalty provisions in Title 29.