

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 429

6
7 S.P. 137

In Senate, February 1, 1983

8 Referred to the Committee on Business Legislation, sent down for
9 concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsor: Representative Tuttle of Sanford.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Regulation of Business
18 Practices between Motor Vehicle Manufacturers,
19 Distributors and Dealers Act
20

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

23 10 MRSA §1175, as amended by PL 1979, c. 498, §2,
24 is further amended to read:

25 §1175. Dealers only liability for product defect

26 Every manufacturer shall specify to the dealer
27 the delivery and preparation obligations of its motor
28 vehicle dealers prior to delivery of new motor vehi-
29 cles to retail buyers. The delivery and preparation
30 obligations of its motor vehicle dealers and a sched-
31 ule of the compensation to be paid to its motor vehi-
32 cle dealers for the work and services they shall be
33 required to perform in connection with such that

1 delivery and preparation obligations shall constitute
2 any such dealer's only responsibility for product
3 liability as between such that dealer and such that
4 manufacturer. The compensation as set forth on said
5 the schedule shall be reasonable.

6 In any action or claim brought against the dealer
7 on a product liability complaint in which it is later
8 determined that the manufacturer is liable, the
9 dealer shall be entitled, from the manufacturer, to
10 receive its reasonable costs and attorney's fees
11 incurred in defending the claim or action.

12 In any action or claim brought against the dealer
13 on a breach of implied warranty complaint in which it
14 is later determined that the manufacturer is liable,
15 the dealer shall be entitled, from the manufacturer,
16 to receive its reasonable costs and attorney's fees
17 incurred in defending the claim or action. In any
18 such implied warranty action, the dealer shall be
19 considered, in relation to the manufacturer, to be a
20 consumer under Title 11, section 2-316, subsection
21 (5).

22 The court shall consider the dealer's share in
23 the responsibility for the damages in awarding costs
24 and attorney's fees.

25 STATEMENT OF FACT

26 This bill rectifies a current inequity in the
27 franchise laws and the general dealer-manufacturer
28 relationship. At this time, while a consumer may sue
29 an automobile dealer or manufacturer, or both, for
30 breach of implied warranty, the dealer is generally
31 barred from suing the manufacturer who actually pro-
32 duced the defective vehicle. In such cases, the
33 dealer is held responsible for the defect created by
34 the manufacturer, and often times may not have effec-
35 tive recourse.

36 This provision expands the rights of the dealer
37 by requiring that if a dealer is sued on an implied
38 warranty complaint, and it is subsequently determined
39 that the manufacturer is responsible for the defect,

1 then the dealer shall be reimbursed by the manufac-
2 turer for reasonable attorneys' fees. The bill also
3 places the dealer, in relation to the manufacturer,
4 in the position of a consumer under the Revised Stat-
5 utes, Title 11, section 2-316, subsection (5). The
6 dealer, therefore, enjoys some of the protections of
7 the Uniform Commercial Code, such as the ability to
8 bring the manufacturer into a suit under the Revised
9 Statutes, Title 11, section 2-607, subsection (5),
10 paragraph (a).

11 The rights of the consumer are in no way limited
12 by this proposal.

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