

MAINE STATE LEGISLATURE

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L.D. 985

(Filing No. H-184)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
111TH LEGISLATURE
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT " A " to H.P. 754,
L.D. 985, Bill, "AN ACT to Amend the Used Car Infor-
mation Law."

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Amend the bill by inserting before the Statement
of Fact the following:

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'Sec. 4. 10 MRSA §1477, sub-§2, as enacted by PL
1981, c. 296, §5, is amended to read:

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2. Civil penalty. In addition to any other
remedy, if a dealer violates this chapter, he shall
be liable to the purchaser in an amount determined by
the court. Each violation of this chapter constitutes
a civil violation and shall be punished by a forfei-
ture of not less than \$100 nor more than \$1,000 and
for costs and reasonable attorney's fees. No action
may be brought for a civil penalty violation under
this subsection more than 2 years after the date of
the occurrence of the violation. No dealer may be
held liable for a civil penalty violation under this
subsection if he shows by a preponderance of the evi-
dence that the violation was unintentional and a bona
fide error, notwithstanding the maintenance of proced-
ures reasonably adopted to avoid any such error.

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Sec. 5. 10 MRSA §1477, sub-§3 is enacted to
read:

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3. Private remedy. In addition to any other
remedy, if a dealer violates this chapter, he is lia-
ble to the purchaser in an amount determined by the
court of not less than \$100 nor more than \$1,000 as
liquidated damages, and for costs and reasonable
attorney's fees. No action may be brought under this
subsection more than 2 years after the date of the

COMMITTEE AMENDMENT "A" to H.P. 754, L.D. 985

1 occurrence of the violation. No dealer may be held
2 liable under this subsection if he shows by a pre-
3 ponderance of the evidence that the violation was
4 unintentional and a bona fide error, notwithstanding
5 the maintenance of procedures reasonably adopted to
6 avoid any such error.'

7 STATEMENT OF FACT

8 This amendment clarifies the enforcement provi-
9 sions of the Used Car Information Act. The current
10 law provides for an action by the purchaser for a
11 "civil penalty," a remedy normally reserved to the
12 State. At the same time, the law precludes an action
13 by the State for the same sort of penalty.

14 The amendment transfers the power to seek a civil
15 penalty to the State, through the Attorney General or
16 district attorney. The private remedy contained in
17 the present law is reallocated to a new subsection
18 and clarified to distinguish it from the public
19 remedy or "civil penalty." All the defenses avail-
20 able to the dealer in a private action under current
21 law are preserved.

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Reported by the Committee on Business Legislation
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