

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 366

6  
7 S.P. 126

In Senate, February 1, 1985

8 Reference to the Committee on Business and Commerce suggested and  
9 ordered printed.

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

Presented by Senator Trafton of Androscoggin.

Cosponsored by Representative Brannigan of Portland.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Amend the Law Relating to  
18 Regulation of Business Practices  
19 Between Motor Vehicle Manufacturers,  
20 Distributors and Dealers.  
21

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

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

26 §1175. Dealers only liability for product defect

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

1 dealer's only responsibility for product liability as  
2 between such dealer and such manufacturer. The com-  
3 pensation as set forth on said schedule shall be rea-  
4 sonable.

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

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

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

#### 24 STATEMENT OF FACT

25 This bill amends the dealer/manufacturer fran-  
26 chise law to rectify a current inequity in the law  
27 and the general dealer/manufacturer relationship. At  
28 this time, while a consumer may sue an automobile  
29 dealer or manufacturer, or both, for breach of im-  
30 plied warranty, the dealer is generally barred from  
31 suing the manufacturer who actually produced the de-  
32 fective vehicle. In such cases, the dealer is held  
33 responsible for the defect created by the manufactur-  
34 er and often times may not have effective recourse.

35 This bill expands the rights of the dealer by re-  
36 quiring that if a dealer is sued on an implied war-  
37 ranty complaint, and it is subsequently determined  
38 that the manufacturer is responsible for the defect,  
39 the dealer shall be reimbursed by the manufacturer  
40 for reasonable attorneys' fees. The bill also places

1 the dealer, in relation to the manufacturer, in the  
2 position of a consumer under the Maine Revised Stat-  
3 utes, Title 11, section 2-316, subsection (5). The  
4 dealer therefore enjoys some of the protections of  
5 the Uniform Commercial Code, such as the ability to  
6 bring the manufacturer into a suit under the Maine  
7 Revised Statutes, Title 11, section 2-607, subsection  
8 (5), paragraph (a).

9 The rights of the consumer are in no way limited  
10 by this proposal.

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