

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1152

6  
7 H.P. 806

House of Representatives, March 27, 1985

8 On Motion of Representative Murray of Bangor, referred to the  
9 Committee on Business and Commerce. Sent up for concurrence and ordered  
printed. Ordered sent forthwith.

10 EDWIN H. PERT, Clerk

Presented by Representative Murray of Bangor.

11 Cosponsored by Representative Mills of Bethel and Representative Martin  
of Van Buren.

12 STATE OF MAINE  
13

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

17 AN ACT to Improve Remedies for Violations of  
18 Used Car Laws.  
19

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

22 Sec. 1. 10 MRSA §1477, sub-§2, as amended by PL  
23 1983, c. 311, §4, is further amended to read:

24 2. Civil penalty. Each violation of this chapter  
25 constitutes a civil violation and shall be punished  
26 by a forfeiture of not less than \$100 nor more than  
27 \$1,000. No action may be brought for a civil viola-  
28 tion under this subsection more than 2 years after  
29 the date of the occurrence of the violation. No  
30 dealer may be held liable for a civil violation under  
31 this subsection if he shows by a preponderance of the  
32 evidence that the violation was unintentional and a  
33 bona fide error, notwithstanding the maintenance of  
34 procedures reasonably adopted to avoid any such er-  
35 ror.

1 In any action to recover a civil penalty, the court,  
2 in addition to any civil penalty, may issue the fol-  
3 lowing orders with respect to any purchaser who is a  
4 victim of the conduct resulting in a civil violation:

5 A. Order the dealer to accept return of the mo-  
6 tor vehicle and return to the purchaser the full  
7 consideration paid for the motor vehicle, includ-  
8 ing the fair market value of any property forming  
9 part of that consideration, reduced only by:

10 (1) The amount of damage caused to the mo-  
11 tor vehicle by the purchaser, other than  
12 damage resulting primarily from a mechanical  
13 defect repairable by the dealer under any  
14 warranty on a vehicle; and

15 (2) With respect to vehicles that have been  
16 in possession of the purchaser for more than  
17 30 days, diminution, if any, in the retail  
18 fair market value of the motor vehicle at-  
19 tributable to the period during which the  
20 consumer has had possession of the motor ve-  
21 hicle in usable condition. Fair market val-  
22 ue for the purposes of this subparagraph  
23 shall be measured by the average retail  
24 price listed in an authorized user guide,  
25 such as the National Automobile Dealer's As-  
26 sociation Official Used Car Guide, New  
27 England Edition, issued next before the sale  
28 and next before the recision; or

29 B. Order the dealer to pay the purchaser damages  
30 in an amount equal to the difference between the  
31 fair market value of the motor vehicle in its ac-  
32 tual condition at the time the dealer violated  
33 this chapter and the fair market value of the mo-  
34 tor vehicle had the dealer complied with this  
35 chapter.

36 Sec. 2. 29 MRSA §2507-A, sub-§3, as enacted by  
37 PL 1979, c. 673, §14, is amended to read:

38 3. Penalty. Notwithstanding section 2521, a vio-  
39 lation of this section shall constitute a civil vio-  
40 lation and shall be punished by a fine of not more  
41 than \$1,000 for each violation. In addition to the

1 civil penalty provided in this section, any violation  
2 of this section shall constitute a violation of stat-  
3 utory provisions governing unfair trade practices,  
4 Title 5, chapter 10.

5 In any action to recover a civil penalty, the court,  
6 in addition to any civil penalty, may issue the fol-  
7 lowing orders with respect to any purchaser who is a  
8 victim of the conduct resulting in a civil violation:

9 A. Order the dealer to accept return of the mo-  
10 tor vehicle and return to the purchaser the full  
11 consideration paid for the motor vehicle, includ-  
12 ing the fair market value of any property forming  
13 part of that consideration, reduced only by:

14 (1) The amount of damage caused to the mo-  
15 tor vehicle by the purchaser, other than  
16 damage resulting primarily from a mechanical  
17 defect repairable by the dealer under any  
18 warranty on a vehicle; and

19 (2) With respect to vehicles that have been  
20 in possession of the purchaser for more than  
21 30 days, diminution, if any, in the retail  
22 fair market value of the motor vehicle at-  
23 tributable to the period during which the  
24 consumer has had possession of the motor ve-  
25 hicle in usable condition. Fair market val-  
26 ue for the purposes of this subparagraph  
27 shall be measured by the average retail  
28 price listed in an authorized user guide,  
29 such as the National Automobile Dealer's As-  
30 sociation Official Used Car Guide, New  
31 England Edition, issued next before the sale  
32 and next before the recision; or

33 B. Order the dealer to pay the purchaser damages  
34 in an amount equal to the differences between the  
35 fair market value of the motor vehicle in its ac-  
36 tual condition at the time the dealer violated  
37 Title 10, chapter 217 and the fair market value  
38 of the motor vehicle had the dealer complied with  
39 Title 10, chapter 217.

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STATEMENT OF FACT

This bill permits the State in an action for civil penalties to obtain relief for injured consumers as well as to obtain payment of a civil penalty.

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