

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1575

7 H.P. 1084

House of Representatives, May 23, 1985

8 Reported by Representative Moholland from the Committee on
9 Transportation. Sent up for concurrence and ordered printed. Approved by
the Legislative Council on May 4, 1984.

10 EDWIN H. PERT, Clerk

11 Reported from the Joint Standing Committee on Transportation under
Joint Rule 19.

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 Laws Related to Motor
18 Vehicle Dealers and to Address Certain
19 Problems Related to Motor Vehicle
20 Auctions in Maine.
21

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

24 Sec. 1. 29 MRSA §57, as amended by PL 1971, c.
25 360, §6, is further amended to read:

26 §57. Records open to public; complaint confidential

27 All records of the Secretary of State pertaining
28 to the applications and registration of vehicles and
29 to operators' licenses shall be open to public in-
30 spection during office hours. Complaints in writing
31 may be regarded as confidential and certain control
32 numbers used in the titling of motor vehicles may be
33 regarded as confidential as well.

34 Sec. 2. 29 MRSA §341, sub-§5, as enacted by PL
35 1973, c. 529, §1, is amended to read:

1 5. Immediate family. "Immediate family" means
2 wife, husband, son, or daughter, ~~son-in-law,~~
3 ~~daughter-in-law~~ residing in the same household as the
4 dealer.

5 Sec. 3. 29 MRSA §341, sub-§12, as enacted by PL
6 1977, c. 481, §10, is amended to read:

7 12. Full-time salesman. "Full-time salesman"
8 means any person who is employed by a dealer and
9 works at his established place of business at least
10 30 hours per week and is a person employed by a deal-
11 er who, under any form of contract, sells, offers for
12 sale or attempts to negotiate a sale or exchange of
13 an interest in a vehicle.

14 Sec. 4. 29 MRSA §343, sub-§1, as repealed and
15 replaced by PL 1977, c. 694, §493, is amended to
16 read:

17 1. Facilities and personnel. To qualify as a
18 dealer under this subchapter, the applicant shall
19 have and maintain at least the following facilities
20 and personnel:

21 A. Proper facilities for the display of the ve-
22 hicles being handled;

23 B. Repair department for the repair of 2 vehi-
24 cles simultaneously;

25 C. Sufficient tools and equipment for proper
26 servicing of the vehicles handled;

27 D. A suitable office from which business is con-
28 ducted and records of the business are kept; and

29 E. At least one mechanic, who may be the owner,
30 who has a thorough knowledge of the vehicles be-
31 ing handled.

32 Each licensee shall maintain a current record of all
33 full-time personnel employed at his established place
34 of business. The record shall at all times be avail-
35 able for inspection by the Secretary of State or his
36 duly authorized agents.

1 Sec. 5. 29 MRSA §343, sub-§2, as enacted by PL
2 1977, c. 694, §493, is amended to read:

3 2. Exemptions. Those who held used car registra-
4 tion plates on January 1, 1964, shall be exempt from
5 only those requirements of this section established
6 by subsection 1, paragraphs B and E. However, the ex-
7 emption from these requirements will expire in the
8 case of any person who held used car dealer registra-
9 tion plates on January 1, 1964, in the event that he
10 sells ~~or~~, discontinues his business or is not li-
11 icensed, using these exemptions, for the year begin-
12 ning January 1, 1985.

13 Sec. 6. 29 MRSA §344, sub-§4 is enacted to read:

14 4. Surety bond. All vehicle dealers licensed
15 pursuant to this subchapter shall be required to file
16 with the Secretary of State and maintain a surety
17 bond in the amount of \$25,000 for the purpose of
18 guaranteeing title and mileage on vehicles sold.

19 Sec. 7. 29 MRSA §345, sub-§§3 and 4 are enacted
20 to read:

21 3. License; new vehicle dealer. No person may
22 engage in the business of buying, selling or offering
23 to negotiate the sale of new vehicles unless licensed
24 by the Secretary of State as a new vehicle dealer.

25 4. Failure to comply with this section. Failure
26 to comply which this section is a Class E crime.

27 Sec. 8. 29 MRSA §346, as enacted by PL 1973, c.
28 529, §1, is amended to read:

29 §346. Initial application fee

30 The initial application for a license under this
31 subchapter must be accompanied by a fee of ~~20~~ \$300.
32 This fee is not refundable.

33 Sec. 9. 29 MRSA §347, as amended by PL 1983, c.
34 818, §8, is further amended to read:

35 §347. License and plate fees

1 Except as sections 357 and 358 provide, the annu-
2 al fee for every license shall be ~~\$50~~ \$150. The an-
3 nual fee for plates shall be ~~\$20~~ \$40 per plate, ex-
4 cept that on application for additional plates ap-
5 plied for during the period between the first day of
6 September and the 31st day of December in any year,
7 1/2 of the plate fee shall be charged. Dealer plates
8 shall be valid from January 1st to December 31st in
9 any year. On and after December 25th of each calendar
10 year, it shall be lawful to use and display on motor
11 vehicles the number plates issued for the next suc-
12 ceeding year. The dealer certificate of registration
13 and license shall be displayed at the dealer's place
14 of business.

15 All branch or annex locations must be approved
16 and licensed by the Secretary of State. The annual
17 fee for each branch or annex location shall be \$75.

18 The number of dealer plates issued to each dealer
19 shall be determined by the Secretary of State.

20 Failure to comply with the provisions of this
21 section is a Class E crime.

22 Sec. 10. 29 MRSA §350-A, sub-§1, ¶¶J and K, as
23 enacted by PL 1977, c. 694, §497, are amended to
24 read:

25 J. Failure to appear at a hearing required by
26 the Secretary of State; ~~or~~

27 K. Failure to comply or to maintain compliance
28 with section 832-; or

29 Sec. 11. 29 MRSA §350-A, sub-§1, ¶L is enacted
30 to read:

31 L. Being a motor vehicle dealer, failure to sell
32 a minimum of 2 vehicles per month or 24 vehicles
33 within a 12-month period.

34 Sec. 12. 29 MRSA §354, sub-§1, as amended by PL
35 1981, c. 696, §3, is further amended to read:

36 1. Vehicle manufacturers and new and used vehi-
37 cle dealers. No vehicle manufacturer, new vehicle

1 dealer or used vehicle dealer may operate or permit
2 to be operated a vehicle owned or controlled by the
3 vehicle manufacturer, new vehicle dealer or used ve-
4 hicle dealer using a dealer registration plate and no
5 person shall operate a vehicle using a dealer regis-
6 tration plate except:

7 A. For the purpose of testing or adjusting these
8 vehicles;

9 A. For purposes directly connected with the
10 business of buying, selling, testing, adjusting,
11 demonstrating or exchanging those vehicles;

12 B. For purposes directly connected with the
13 business of buying, servicing, selling, demon-
14 strating or exchanging of those vehicles;

15 C. For personal use of a manufacturer or dealer.
16 There shall be no more than one dealer plate for
17 the personal use of the manufacturer or dealer
18 and no more than one dealer plate for the immedi-
19 ate family of the dealer;

20 D. For the use of those vehicles in funerals or
21 in public parades when no charge is made for the
22 use;

23 E. For the use of a full-time salesman, general
24 manager, sales manager or service manager who is
25 on the dealer's payroll, but not the immediate
26 family or members of the household of a salesman,
27 general manager, sales manager or service manag-
28 er;

29 F. For use by customers for the purpose of dem-
30 onstrating those vehicles for a period not to ex-
31 ceed 7 days;

32 G. A violation of paragraphs A to F is a traffic
33 infraction; or

34 H. For use of vehicles by manufacturers or deal-
35 ers provided the combined weight of the vehicle
36 and any load does not exceed 10,000 pounds.

1 This paragraph does not apply to any vehicle
2 which, by design, exceeds 10,000 pounds without a
3 load, such as large trucks and trucks with perma-
4 nently attached equipment and dealer wreckers
5 registered pursuant to subsection 3.

6 In order for any vehicle having a net weight of
7 more than 10,000 pounds to carry a load a permit
8 must be issued pursuant to subsection 4.

9 This subsection is to be applicable to all new and
10 used car dealers and holders of transporter registra-
11 tions and plates issued pursuant to chapter 5, sub-
12 chapter III-A.

13 Anyone licensed pursuant to this subchapter as a new
14 or used vehicle dealer may attach to his service ve-
15 hicles a specially designed service vehicle plate
16 that may be used only in the direct connection of the
17 licensee's business. No new or used vehicle dealer
18 may obtain more than 3 service vehicle plates, and
19 the weight limitation for service vehicles, including
20 combined weight of vehicle and any load, shall not
21 exceed 18,000 pounds. The fee for a specially de-
22 signed service vehicle plate shall be the same as the
23 fee for wreckers, as stipulated in subsection 3.

24 Sec. 13. 29 MRSA §354, sub-§3, as amended by PL
25 1981, c. 696, §4, is further amended to read:

26 3. Wreckers. Anyone issued vehicle dealer or
27 equipment dealer registration plates may operate a
28 motor vehicle wrecker with a specially designed deal-
29 er plate attached to the wrecker if the wrecker is
30 used only in direct connection with the service, re-
31 pair or towing business of the dealer. Any wrecker to
32 which a specially designed wrecker plate has been at-
33 tached may not be used in connection with a commer-
34 cial towing business nor exceed 24,000 pounds gross
35 vehicle weight.

36 The fee for a specially designed dealer wrecker plate
37 is \$50 per plate annually, except that on application
38 for additional plates applied for during the period
39 between the first day of September and the 31st day
40 of December in any year, the fee is \$25 per plate.
41 The fee for a specially designed dealer wrecker and

1 service vehicle plates is \$75 per plate annually, ex-
2 cept that, on application for additional plates ap-
3 plied for during the period of the first day of Sep-
4 tember and the 31st day of December in any year, the
5 fee is \$40 per plate. The specially designed dealer
6 wrecker and service vehicle plate is valid from Janu-
7 ary 1st to December 31st in any year. On and after
8 December 25th of each calendar year, it is lawful to
9 use and display on motor vehicles the specially de-
10 signed plates issued for the next succeeding year.
11 The certificate of registration for the specially de-
12 signed dealer wrecker and service vehicle plate shall
13 be displayed at the dealer's place of business.

14 The number of specially designed dealer wrecker
15 plates issued to each dealer shall be determined by
16 the Secretary of State.

17 **Sec. 14.** 29 MRSA §357, 2nd ¶, as amended by PL
18 1981, c. 456, Pt. A, §92, is further amended to read:

19 Every manufacturer or dealer in motorcycles or
20 motor driven cycles shall annually pay a fee of ~~15~~
21 \$50 for a registration certificate to handle, demon-
22 strate, sell and exchange motorcycles or motor driven
23 cycles. Upon payment of ~~5~~ \$15 per plate, plates
24 shall be issued, the number to be determined by the
25 Secretary of State, who is authorized to prescribe
26 reasonable limitations on the use of such plates. Ex-
27 tra registration plates shall be furnished to replace
28 lost or mutilated plates for ~~1~~ \$5 each.

29 **Sec. 15.** 29 MRSA §358, as amended by PL 1981, c.
30 456, Pt. A, §93, is further amended to read:

31 §358. Boat or snowmobile trailer dealers; fee

32 Every manufacturer or dealer in boat or snowmo-
33 bile trailers shall annually pay a fee of ~~15~~ \$50 for
34 a registration certificate to handle, demonstrate,
35 sell and exchange boat or snowmobile trailers. Upon
36 payment of ~~5~~ \$15 per plate, plates shall be issued,
37 the number to be determined by the Secretary of
38 State, who is authorized to prescribe limitations of
39 use of such plates. Extra registration plates shall
40 be furnished to replace lost or mutilated plates for
41 ~~2~~ \$5 each.

1 Sec. 16. 29 MRSA §360, first ¶, as enacted by PL
2 1973, c. 529, §1, is amended to read:

3 Garage owners, body shops, finance companies,
4 banks and ~~junk~~ salvage dealers may apply for a trans-
5 porter registration license and plates for the pur-
6 pose of transportation and delivery of vehicles owned
7 or temporarily in their custody. The holder of a
8 transporter registration plate may transport or de-
9 liver using this plate only if the vehicle is accom-
10 panied by the owner or someone in his employ. In no
11 event shall any transporter plate be used in lieu of
12 registration plates issued under this Title or be
13 loaned to any person or be used by the holder for
14 personal reasons. Transporter plates shall not be
15 used on a towing vehicle.

16 Sec. 17. 29 MRSA §361, 2nd ¶, as amended by PL
17 1975, c. 731, §31, is further amended to read:

18 A complete record must be kept at the dealer's or
19 licensee's place of business for inspection at any
20 time stating the hour and date the motor vehicle is
21 loaned and when it is returned, the serial number of
22 the motor vehicle loaned, the loaner plate number and
23 the registration number of the customer's motor vehi-
24 cle in his care and custody and he must see that the
25 operator has a current operator's license before re-
26 leasing a vehicle to him and shall record his name
27 and address. Failure to keep such a record shall be
28 a misdemeanor. Loaner plates may not be used by the
29 registrant on his motor vehicle or on a motor vehicle
30 owned by anyone else in lieu of registration for per-
31 sonal use or pleasure.

32 Sec. 18. 29 MRSA §2364, sub-§1, ¶B, as amended
33 by PL 1973, c. 294, §6, is further amended to read:

34 B. A description of the vehicle including, so
35 far as the following data exists, its make, mod-
36 el, model year, identification number, type of
37 body, the number of cylinders, current mileage
38 and whether new or used;

39 Sec. 19. 29 MRSA §2367, sub-§1, ¶E, as amended
40 by PL 1975, c. 745, §19, is further amended to read:

1 E. A description of the vehicle including, ~~so~~
2 ~~far~~ insofar as the following data exists, its
3 make, model, model year designation, identifica-
4 tion number, type of body, number of cylinders,
5 whether new or used, current mileage and, if a
6 new vehicle, the date of the first sale of the
7 vehicle for use; and

8 Sec. 20. 29 MRSA §2373, as repealed and replaced
9 by PL 1983, c. 818, §25, is amended by adding after
10 the first paragraph 2 new paragraphs to read:

11 Any vehicle being sold or displayed for sale at
12 an auction, as defined by section 341, subsection 13,
13 must be accompanied by a valid certificate of title
14 at the time of its sale or display for sale.

15 Any vehicle exempt under section 2362 and any ve-
16 hicle coming from a jurisdiction which does not issue
17 certificates of title must be accompanied by any in-
18 formation and documents the Secretary of State rea-
19 sonably requires to establish the ownership of the
20 vehicle and the existence or nonexistence of a secu-
21 rity interest in it.

22 Sec. 21. 29 MRSA §2405, sub-§2, as enacted by PL
23 1981, c. 437, §25, is amended to read:

24 2. Lien satisfied; title released. If the lien
25 was satisfied in conjunction with the sale of the ve-
26 hicle and if a subordinate lienholder does not exist,
27 release the title to the owner or to any person who
28 delivers to the lienholder an authorization from the
29 owner to receive the certificate; or

30 Sec. 22. 29 MRSA §2405, sub-§3, as enacted by PL
31 1981, c. 437, §25, is repealed and the following en-
32 acted in its place:

33 3. Certificate mailed to owner and Secretary of
34 State notified. Mail or deliver this certificate to
35 the owner named on the certificate and notify the
36 Secretary of State that the lien has been satisfied.
37 The notification shall be issued in a manner pre-
38 scribed by the Secretary of State.

39 Sec. 23. 29 MRSA §2442, sub-§4 is enacted to
40 read:

1 4. Vehicles to become property of State; dispos-
2 al. As stipulated in this chapter, impounded vehi-
3 cles that are unclaimed, recovered stolen or
4 unidentifiable shall become the property of the State
5 and the Secretary of State shall dispose of those vehi-
6 cles in the following manner.

7 A. The Secretary of State shall notify within 10
8 days, after impoundment, by registered or certi-
9 fied mail, return receipt requested, the last
10 known owner and all lienholders of record pursu-
11 ant to this chapter, "Title of Motor Vehicles."
12 The notice shall describe the year, make, model
13 and vehicle identification number, if known. The
14 notice shall state that the failure of the owner
15 or lienholders to exercise their rights to re-
16 claim the vehicle within 30 days from receipt of
17 notice shall be deemed a waiver by the owner or
18 lienholders of all rights, title and interest in
19 the vehicle.

20 B. After the notification, the Secretary of
21 State may, in his discretion, dispose of the ve-
22 hicle at a public auction.

23 Sec. 24. 29 MRSA §2452, as amended by PL 1983,
24 c. 818, §28, is further amended to read:

25 §2452. License fees

26 The initial application for a license under this
27 subchapter shall be accompanied by a ~~\$20~~ \$300
28 nonrefundable application fee. The application fee
29 for every license issued under this subchapter shall
30 be ~~\$50~~ \$150, except those businesses licensed by the
31 Secretary of State as new car, used car and equipment
32 dealers pursuant to chapter 5, subchapter III-A, will
33 be exempt from an additional \$50 license fee.

34 Sec. 25. Allocation. The following funds are
35 allocated from the Highway Fund to carry out the pur-
36 poses of this Act.

37 1985-86 1986-87

38 SECRETARY OF STATE,
39 DEPARTMENT OF

1	Division of Motor Vehicles		
2	Administration, Motor Vehicle		
3	Positions	(15)	(15)
4	Personal Services	\$236,299	\$334,518
5	All Other	70,486	93,981
6	Capital Expenditures	<u>41,156</u>	<u> </u>
7	Total	\$347,941	\$428,499

8 FISCAL NOTE

9 The various license and fee increases included in
10 this bill are expected to raise Highway Fund revenues
11 by approximately \$328,000 in fiscal year 1986 and
12 \$437,000 in fiscal year 1987.

13 The Division of Motor Vehicles estimates that it
14 will need 15 positions to carry out the purposes of
15 this Act. Highway Fund allocations of \$347,941 in
16 fiscal year 1986 and \$428,499 in fiscal year 1987
17 will be needed.

18 STATEMENT OF FACT

19 Section 1 of the bill allows the Secretary of
20 State to withhold information of a "confidential" na-
21 ture, such as control numbers used in automobile ti-
22 tles. Presently, the Secretary of State must respond
23 to requests for information of this type from anyone,
24 regardless of their motive.

25 Section 2 of the bill tightens the definition of
26 immediate family to eliminate "son-in-law" and
27 "daughter-in-law" in the registration of dealers sub-
28 chapter.

29 Section 3 expands the definition of full-time
30 salesman in the same definition section of the regis-
31 tration of dealers subchapter.

32 Sections 4 and 5 modifies section 343 to intro-
33 duce additional provisions related to facility re-
34 quirements and to reduce the opportunity for incon-
35 sistent observation of those standards among dealers.

1 Section 6 of the bill requires every motor vehi-
2 cle dealer to post a surety bond in the amount of no
3 less than \$25,000 for title and odometer problems.
4 This additional protection afforded the consumer is a
5 requirement imposed by most states on the motor vehi-
6 cle sales industry.

7 Section 7 of the bill strengthens special re-
8 quirements to deal in new car sales by adding a pen-
9 alty section.

10 Section 8 increases the initial application fee
11 to become a licensed motor vehicle dealer.

12 In section 9, the annual fee for each dealer li-
13 cense is also increased and a new fee is established
14 for motor vehicle dealers maintaining branch or annex
15 locations.

16 Section 10 of the bill is a typographical adjust-
17 ment.

18 Section 11 of the bill establishes an additional
19 criterion as grounds for denying, suspending or re-
20 voking a motor vehicle dealer's license. If adopted,
21 motor vehicle dealers who do not generate sales above
22 the minimum level would be more closely scrutinized
23 by the Department of Motor Vehicles.

24 Sections 12 and 13 modify language related to
25 conditions of legitimate use for dealer plates; es-
26 tablishes a clearer classification for service vehi-
27 cle plates and new fees for service vehicle plates.

28 Section 14 increases fees for motorcycle dealers
29 to obtain registration certificates.

30 Section 15 increases fees for boat or snowmobile
31 trailer dealers to obtain registration certificates.

32 Section 16 adds the term salvage to include sal-
33 vage dealers as eligible to obtain a transporter reg-
34 istration license.

35 Section 17 relates to records kept on loaner ve-
36 hicles.

1 Sections 18, 19, 20, 21 and 22 make modifications
2 which are intended to expedite the process of issuing
3 valid title to automobiles.

4 Section 23 grants authority to the Secretary of
5 State to claim possession of unclaimed vehicles.
6 Presently, under Maine law, there is no specific au-
7 thority granted to the Secretary of State to claim
8 possession of vehicles that are unclaimed, recovered
9 stolen or vehicles with unclear or invalid vehicle
10 identification numbers.

11 When impounded vehicles are not claimed, the ga-
12 rage involved, using the 30-day mechanic's lien,
13 takes possession of these vehicles. In some cases,
14 these vehicles have considerable value beyond storage
15 and towing. In other cases, vehicles are held for
16 long periods of time, waiting for a former owner,
17 lienholder or insurance company to reclaim the vehi-
18 cle.

19 Section 24 changes the application fee and annual
20 license fee for recycled and scrap processors to
21 achieve consistency in establishing higher fees in
22 all areas related to dealers.

23 Section 25 calls for an allocation from the High-
24 way Fund to strengthen the Department of Motor
25 Vehicle's capability to handle the increased work
26 load in the area of titles and to respond more effec-
27 tively to new demands for:

28 1. More automated data retrieval;

29 2. More manpower to monitor and serve motor ve-
30 hicle dealers; and

31 3. The establishment of special educational pro-
32 grams to inform dealers of statutory and regulatory
33 requirements and to assist dealers in compliance with
34 paperwork demands imposed by the State.

35

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