

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 954

S.P. 326

In Senate, March 27, 1987

Reference to the Committee on Business Legislation suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.

Cosponsored by Representative COTE of Auburn,
Representative GURNEY of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend the Maine Lemon Law.

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

Sec. 1. 10 MRSA §1161, sub-§1, as enacted by PL 1983, c. 145, is amended to read:

1. Consumer. "Consumer" means the purchaser, other than for purposes of resale, or the lessee, of a motor vehicle, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty, except that the term "consumer" shall not include any governmental entity, ~~or any business or commercial enterprise which registers 3 or more motor vehicles.~~

1 Sec. 2. 10 MRSA §1161, sub-§3, as enacted by PL
2 1983, c. 145, is amended to read:

3 3. Motor vehicle. "Motor vehicle" means any mo-
4 tor driven vehicle, designed for the conveyance of
5 passengers or property on the public highways, which
6 is sold or leased in this State, except that the term
7 "motor vehicle" does not include any commercial vehi-
8 cle with a gross vehicle weight of 8,500 pounds or
9 more.

10 Sec. 3. 10 MRSA §1163, sub-§§2, 3 and 4, as
11 amended by PL 1985, c. 220, §3, are further amended
12 to read:

13 2. Failure to make effective repair. If the
14 manufacturer or its agents or authorized dealers are
15 unable to conform the motor vehicle to any applicable
16 express warranty by repairing or correcting any de-
17 fect or condition, or combination of defects or con-
18 ditions, which substantially impairs the use, safety
19 or value of the motor vehicle after a reasonable num-
20 ber of attempts, at the option of the consumer, the
21 manufacturer shall either replace the motor vehicle
22 with a comparable new motor vehicle or accept return
23 of the vehicle from the consumer and make a refund to
24 the consumer and lienholder, if any, as their inter-
25 ests may appear. The refund shall consist of the
26 following items, less a reasonable allowance for use
27 of the vehicle:

28 A. The full purchase price or, if a leased vehi-
29 cle, the lease payments made to date;

30 B. All collateral charges, including, but not
31 limited to, sales tax, license and registration
32 fees and similar government charges; and

33 C. Costs incurred by the consumer for towing and
34 storage of the vehicle and for procuring alterna-
35 tive transportation while the vehicle was out of
36 service by reason of repair.

37 3. Reasonable number of attempts; presumption.
38 It is presumed that a reasonable number of attempts
39 have been undertaken to conform a motor vehicle to
40 the applicable express warranties, if:

1 A. In the case of a motor vehicle sold before
2 October 1, 1985, the same nonconformity has been
3 subject to repair 4 3 or more times by the manu-
4 facturer or its agents or authorized dealers
5 within the express warranty term or during the
6 period of one year following the date of original
7 delivery of the motor vehicle to a consumer,
8 whichever is the earlier date, and at least 2 of
9 those times to the same agent or dealer, but the
10 nonconformity continues to exist;

11 A-1. In the case of a motor vehicle sold on or
12 after October 1, 1985, the same nonconformity has
13 been subject to repair 4 3 or more times by the
14 manufacturer or its agents or authorized dealers
15 within the express warranty term, during the pe-
16 riod of 2 years following the date of original
17 delivery of the motor vehicle to a consumer or
18 during the first 18,000 miles of operation,
19 whichever is the earlier date, and at least 2 of
20 those times to the same agent or dealer, but the
21 nonconformity continues to exist; or

22 B. The vehicle is out of service by reason of
23 repair, by the manufacturer, its agents or autho-
24 rized dealer, of any nonconformities covered un-
25 der subsection 2 for a cumulative total of 30 15
26 or more business days during that warranty term
27 or the appropriate time period, whichever is the
28 earlier date.

29 4. Time limit; extension. The term of an ex-
30 press warranty, the one-year and 2-year periods fol-
31 lowing delivery and the 30-day 15-day period provided
32 in subsection 3, paragraph B, shall be extended by
33 any period of time during which repair services are
34 not available to the consumer because of a war, inva-
35 sion, strike or fire, flood or other natural disas-
36 ter.

37 Sec. 4. 10 MRSA §1163, sub-§6, as enacted by PL
38 1985, c. 220, §3, is amended to read:

39 6. Disclosure of notice requirement. No consum-
40 er may be required to notify the manufacturer of a
41 claim under this section, unless the manufacturer
42 manufacturer has clearly and conspicuously disclosed

1 to the consumer, in the warranty or owner's manual,
2 that written notification of the nonconformity is re-
3 quired before the consumer may be eligible for a re-
4 fund or replacement of the vehicle. The manufacturer
5 shall include with the warranty or owner's manual the
6 name and address to which the consumer shall send the
7 written notification. In addition, all authorized
8 dealers shall provide to each purchaser a written
9 summary of the consumer rights under this chapter.
10 The Department of the Attorney General shall prepare
11 such a summary that shall be used by dealers.

12 **Sec. 5.** 10 MRSA §1163, sub-§6-A is enacted to
13 read:

14 6-A. Notification of dealer. Consumers may also
15 satisfy a manufacturer's notice requirement by noti-
16 fying in writing the authorized dealer of a claim un-
17 der this section. The dealer shall act as the manu-
18 facturer's agent and within 5 business days convey to
19 the manufacturer the consumer's claim.

20 **Sec. 6.** 10 MRSA §1168 is enacted to read:

21 §1168. New car leases

22 For the purposes of this chapter only, the fol-
23 lowing rules apply to leases of new motor vehicles.

24 1. Warranties. If express warranties are regu-
25 larly furnished to purchasers of substantially the
26 same kind of motor vehicles:

27 A. Those warranties shall be deemed to apply to
28 the leased motor vehicles; and

29 B. The lessor and lessee each shall be deemed to
30 be the first purchaser of the motor vehicle for
31 the purpose of any warranty provision limiting
32 warranty benefits to the original purchaser.

33 2. Lessee's rights. The lessee of a motor vehi-
34 cle has the same rights under this chapter against
35 the manufacturer and any person making express war-
36 ranties that the lessee would have under this chapter
37 if the vehicle had been purchased by the lessee. The
38 manufacturer and any person making express warranties

