

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1260

H.P. 903

House of Representatives, April 20, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Sabattus.

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STATE OF MAINE

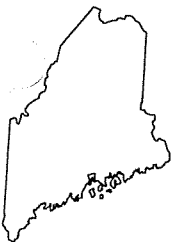
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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**An Act Relating to the Disclosure of Information Concerning Used  
Motor Vehicles at the Time of Sale or Transfer.**

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

3 Sec. 1. 10 MRSA §1471, sub-§2, as amended by PL 1985, c. 569,  
5 §1, is further amended to read:

7 2. Dealer. "Dealer" means and includes a natural person,  
9 firm, corporation, partnership and any other legal entity that is  
11 engaged in the business of selling, offering for sale, or  
13 negotiating the sale of used motor vehicles, except auctioneers  
15 licensed by the Secretary of State and includes the officers,  
17 agents and employees thereof. "Dealer" also includes, but is not  
19 limited to, persons licensed to engage in the business of selling,  
offering for sale or negotiating the sale of used motor vehicles in  
states other than this State, finance companies, banks, car rental  
companies and insurance companies that sell or transfer title to  
used motor vehicles within the State at licensed auction locations  
in this State or by any other means. "Dealer" does not include  
departments or agencies of the State when selling, offering for  
sale or negotiating the sale of used state-owned motor vehicles.

21 Sec. 2. 10 MRSA §1475, sub-§3, as amended by PL 1987, c. 593, is  
23 further amended to read:

25 3. Written statement. A dealer shall obtain from the seller  
27 of a used motor vehicle a written statement containing the  
following information:

29 A. The make, model, model year and any identification or  
serial numbers of the motor vehicle;

31 B. The name and address of the seller, the principal use to  
33 which the motor vehicle was put by the seller, such as  
personal transportation, police car, daily rental car, taxi or  
other descriptive term;

35 C. A statement identifying any and all mechanical defects  
37 known to the seller at the time of sale; and

39 D. A statement identifying the type of damage, if any, that  
41 the vehicle has sustained, such as fire, water or substantial  
collision damage, if such information is known to the seller.

43 The seller of the used motor vehicle shall sign this written  
45 statement and the dealer who buys the vehicle shall maintain a  
record of it for one year following the sale of the motor vehicle.

47 The word "seller," as used in this subsection, includes any person  
49 who sells a used motor vehicle to a dealer, including, but not  
limited to, individuals, other new or used motor vehicle dealers  
and insurance companies.

51

1 As used in subsections 2 and 3, "substantial collision damage"  
2 means any damage to a motor vehicle from a collision when the costs  
3 of repair of that damage, including replacement of mechanical and  
4 body parts, exceeds an amount that is greater than 25% of the  
5 National Automobile Dealer's Association's average retail value of  
6 the vehicle at the time the damage occurred.

7  
8 **Sec. 3. 10 MRSA §1477, sub-§2, as amended by PL 1983, c. 311,**  
9 **§4, is further amended to read:**

11 2. **Civil penalty.** Each violation of this chapter constitutes  
12 a civil violation and shall be punished by a forfeiture of not less  
13 than \$100 nor more than \$1,000. No action may be brought for a  
14 civil violation under this subsection more than 2 years after the  
15 date of the occurrence of the violation. No dealer may be held  
16 liable for a civil violation under this subsection if he that  
17 dealer shows by a preponderance of the evidence that the violation  
18 was unintentional and a bona fide error, notwithstanding the  
19 maintenance of procedures reasonably adopted to avoid any such  
20 error. The failure of a dealer or a seller of a used motor vehicle  
21 to disclose all information concerning a vehicle which is sold to  
22 another dealer as required by section 1475, when the information is  
23 known to the dealer or seller at the time of the sale or transfer  
24 of the vehicle, shall also be considered a violation of this  
25 chapter and shall constitute a civil violation that is subject to  
26 the civil penalties provided for in this subsection.

27  
28 **Sec. 4. 10 MRSA §1477, sub-§3, as enacted by PL 1983, c. 311,**  
29 **§5, is amended to read:**

31 3. **Private remedies.** In addition to any other remedy, if a  
32 dealer violates this chapter, he that dealer is liable to the  
33 purchaser in an amount determined by the court of not less than  
34 \$100 nor more than \$1,000 as liquidated damages, and for costs and  
35 reasonable attorney's fees. No action may be brought under this  
36 subsection more than ~~2~~ one year after the date of the  
37 occurrence of the violation, provided that the purchaser shows the  
38 alleged violation was discovered by the purchaser within 30 days  
39 from the date the violation is alleged to have occurred. No dealer  
40 may be held liable under this subsection if he that dealer shows by  
41 a preponderance of the evidence that the violation was  
42 unintentional and a bona fide error, notwithstanding the  
43 maintenance of procedures reasonably adopted to avoid any such  
44 error. If, in addition to the liquidated damages provided by this  
45 subsection, a dealer is required by the court as a further remedy  
46 to repurchase the vehicle from the purchaser, the repurchase price  
47 paid by the dealer to the original purchaser shall be equal to the  
48 original purchase price reduced by an amount equal to the product  
49 of multiplying 15¢ times the total number of miles the purchaser  
50 has driven the vehicle in question from the date the violation  
51 occurred to the date of repurchase of the vehicle by the dealer.

1 In addition to any other remedy, if a dealer or the seller of a  
3 used motor vehicle who sells the vehicle to another dealer fails to  
5 disclose facts concerning that vehicle which are required to be  
7 disclosed by the provisions of section 1475, which facts were known  
9 by the dealer or seller at the time the disclosure was made, the  
11 dealer or seller is liable to the purchasing dealer in an amount  
13 determined by the court of not less than \$100 nor more than \$1,000  
15 as liquidated damages, and for costs and reasonable attorney's  
17 fees. No action may be brought under this subsection more than 18  
19 months after the date of the occurrence of the violation.

21 **Sec. 5. 29 MRSA §367, sub-§1, ¶¶D and E, as enacted by PL 1981,**  
23 **c. 437, §14, are amended to read:**

25 D. Odometer reading at the time of sale or transfer of  
27 interest in the vehicle; and

29 E. Any additional information which may be required by the  
31 official form provided by the Secretary of State; and

33 **Sec. 6. 29 MRSA §367, sub-§1, ¶F is enacted to read:**

35 F. A statement that a completed disclosure, required by Title  
37 10, section 1475, subsection 1, was affixed to the vehicle  
39 before it was sold or transferred at auction.

#### 41 STATEMENT OF FACT

43 The purpose of this bill is to correct a number of  
45 deficiencies that presently exist in the law with respect to  
47 disclosures that are required from either dealers or private  
49 individuals who sell used motor vehicles to other dealers and the  
51 disclosures made by the selling dealers to consumers who buy those  
53 same vehicles.