

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1909

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H.P. 1319

House of Representatives, May 29, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.  
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 KONTOS of Windham.

Cosponsored by Senator TITCOMB of Cumberland, Senator RICH of Cumberland and Representative MELENDY of Rockland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act to Regulate Certain Warranty Practices for Repairs to Watercraft.

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(AFTER DEADLINE)



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

4 10 MRSA c. 204-B is enacted to read:

6 CHAPTER 204-B

8 WATERCRAFT MANUFACTURERS, DISTRIBUTORS AND DEALERS

10 §1196. Definitions

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Distributor or wholesaler. "Distributor" or "wholesaler" means any person who sells or distributes new or used watercraft or engines for watercraft to watercraft dealers or who maintains distributor representatives within this State.

18 2. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a watercraft dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of watercraft or engines for watercraft or services related to watercraft at wholesale, retail, leasing or otherwise.

26 3. Franchisee. "Franchisee" means a watercraft dealer to whom a franchise is offered or granted.

30 4. Franchisor. "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a watercraft dealer.

34 5. Manufacturer. "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, that manufactures or assembles new watercraft or engines for watercraft, or imports for distribution through distributors of watercraft, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the term "distributor" or "wholesaler."

42 6. Watercraft. "Watercraft" means any type of vessel, boat or craft used or capable of being used as a means of transportation on water. "Watercraft" does not include a seaplane.

48 7. Watercraft dealer. "Watercraft dealer" means any person who sells or solicits or advertises the sale of new or used watercraft or engines for watercraft. "Watercraft dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment.

2 decree or order of any court or public officers while performing  
3 their duties as such officers.

4 **§1197. Warranty**

6 **1. Parts or labor; satisfaction of warranty.** If a  
7 franchisor requires or permits a franchisee to perform labor or  
8 provide parts to satisfy a warranty created by the franchisor,  
9 the franchisor shall properly and promptly fulfill its warranty  
10 obligations and:

12 A. Adequately and fairly compensate the franchisee for any  
13 parts provided by the franchisee to satisfy the warranty; and

14 B. Reimburse the franchisee for any labor performed by the  
15 franchisee to satisfy the warranty. Reimbursement for labor  
16 may not be less than the retail rate customarily charged by  
17 that franchisee for the same labor when not performed to  
18 satisfy a warranty. To be entitled to reimbursement under  
19 this section, a franchisee must post in a place conspicuous  
20 to service customers the rate for labor not performed to  
21 satisfy a warranty.

24 **2. Restrictions prohibited.** A franchisor may not, by  
25 agreement, by restriction upon reimbursement or otherwise,  
26 restrict the nature or extent of labor performed or parts  
27 provided if such a restriction impairs the franchisee's ability  
28 to satisfy a warranty created by the franchisor by performing  
29 labor competently or by providing parts in accordance with  
30 generally accepted standards.

32 **3. Claim.** A claim by a franchisee for compensation for  
33 parts provided or for reimbursement for labor performed to  
34 satisfy a warranty must be approved or disapproved within 30 days  
35 of receipt by the franchisor. A claim that is approved must be  
36 paid within 30 days of its approval. If a franchisor disapproves  
37 a claim, it shall notify the franchisee that submitted the claim  
38 within 30 days of disapproval of the specific reasons for  
39 disapproval.

40 **4. Costs; fees.** If a franchisee brings a legal action to  
41 collect a disapproved claim and is successful in that action, the  
42 court shall award the franchisee the cost of the action and  
43 reasonable attorney's fees. Reasonable attorney's fees must be  
44 determined by the value of the time reasonably expended by the  
45 attorney and not by the amount of the recovery on behalf of the  
46 franchisee.

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STATEMENT OF FACT

This bill provides that watercraft dealers that provide parts for or perform labor on watercraft or engines for watercraft to satisfy a manufacturer's warranty are entitled to adequate and fair compensation for parts and reimbursement for labor at a rate not less than the rate customarily charged by the dealer for nonwarranty work. The bill parallels a similar provision for motor vehicle warranty repairs under the Maine Revised Statutes, Title 10, section 1176.