

MAINE STATE LEGISLATURE

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L.D. 694

(Filing No. S- 67)

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 223, L.D. 694, Bill, "An Act to Require That Purchasers of Used Cars Be Informed Whether the Cars Were the Subjects of Lemon Law Decisions"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 10 MRSA §1471, sub-§6-B is enacted to read:

6-B. Seller. "Seller" means any person who sells a used motor vehicle to a dealer, including, but not limited to, individuals, other new or used motor vehicle dealers, motor vehicle manufacturers and insurance companies.

Sec. 2. 10 MRSA §1475, sub-§3, as amended by PL 1991, c. 62, §2, is further amended to read:

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

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

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

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

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

6 Any dealer who offers for sale to consumers a repossessed vehicle
that has been obtained by the dealer through any transaction
8 other than a retail sale is not subject to the provisions of this
subsection.

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

16 ~~The word "seller," as used in this subsection, includes any
18 person 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.~~

20 As used in subsections 2 and 3, "substantial collision damage"
22 means any damage to a motor vehicle from a collision when the
costs of repair of that damage, at the time of repair, including
24 replacement of mechanical and body parts, exceeded by 3 times the
amount of damage that would at the time of the collision have
26 required a report of the collision to a law enforcement agency
under the provisions of Title 29, section 891.

28 **Sec. 3. 10 MRSA §1475, sub-§4 is enacted to read:**

30 4. Lemon law buybacks. If a vehicle has been the subject
32 of a complaint pursuant to chapter 203-A or any state's new motor
34 vehicle lemon law that protects consumers from motor vehicles
36 that do not conform to all manufacturer express warranties and
38 that complaint was either filed in court or accepted for
state-certified arbitration and the manufacturer subsequently
purchased back the vehicle, either as the result of a court or
arbitration order or voluntary settlement:

40 A. The dealer must disclose this fact, if known, when
42 disclosing any defects pursuant to subsection 2-A; and

44 B. The manufacturer must disclose this fact when selling
46 the vehicle to a dealer and completing the statement
48 required by subsection 3.

**Sec. 4. 10 MRSA §1477, sub-§3, as amended by PL 1989, c. 198,
§4, is further amended to read:**

2 3. **Private remedies.** In addition to any other remedy, if a
dealer violates this chapter, that dealer is liable to the
4 purchaser in an amount determined by the court of not less than
\$100 nor more than \$1,000 as liquidated damages, and for costs
6 and reasonable attorney's fees. No action may be brought under
this subsection more than 2 years after the date of the
8 occurrence of the violation. No dealer may be held liable under
this subsection if that dealer shows by a preponderance of the
10 evidence that the violation was unintentional and a bona fide
error, notwithstanding the maintenance of procedures reasonably
12 adopted to avoid any such error.

14 In addition to any other remedy, if a dealer ~~or the~~ seller of a
used motor vehicle who sells the vehicle to another a dealer
16 fails to disclose facts concerning that vehicle which are
required to be disclosed by the provisions of section 1475, which
18 facts were known by the dealer ~~or~~ seller at the time the
disclosure was made, the dealer ~~or~~ seller is liable to the
20 purchasing dealer in an amount determined by the court of not
less than \$100 nor more than \$1,000 as liquidated damages, and
22 for costs and reasonable attorney's fees. No action may be
brought under this subsection more than 30 months after the date
24 of the occurrence of the violation.

26 FISCAL NOTE

28 The costs to provide additional consumer assistance can be
absorbed by the Department of the Attorney General utilizing
30 existing budgeted resources.

32 The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system
34 can be absorbed within the budgeted resources of the Judicial
Department.'

38 STATEMENT OF FACT

40 This amendment replaces the original bill and requires that
a consumer purchasing a used car be informed whether the vehicle
42 had been the subject of a lemon law decision or settlement,
whether in Maine or any other state. In addition, this amendment
44 establishes that any person who knowingly fails to disclose to
the dealer any information the dealer is required to place on the
46 used car information sticker is liable, in addition to damages,
for attorneys' fees in any action brought under this section.

48 Reported by Senator Cianchette for the Committee on Business
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(4/13/93)

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