

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1327

H.P. 964

House of Representatives, March 4, 1997

An Act to Regulate Recreational Vehicle Franchises.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative VIGUE of Winslow.
Cosponsored by Senator CAREY of Kennebec and
Representatives: CAMERON of Rumford, FISHER of Brewer, JOY of Crystal, LANE of
Enfield, MacDOUGALL of North Berwick, PERRY of Bangor, Senators: JENKINS of
Androscoggin, MURRAY of Penobscot.

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

2
3 **Sec. 1. 10 MRSA §1171, sub-§11**, as amended by PL 1995, c. 65,
4 Pt. A, §14 and affected by §153 and Pt. C, §15, is further
5 amended to read:

6 **11. Motor vehicle.** "Motor vehicle" means ~~any motor-driven~~
7 ~~vehicle required to be registered under Title 29-A, chapter 5.:~~

8
9 A. A motor vehicle required to be registered under Title
10 29-A, chapter 5;

11 B. An all-terrain vehicle as defined in Title 12, section
12 7851, subsection 2;

13 C. Any watercraft as defined in section 1196, subsection 6;
14 and

15 D. A snowmobile as defined in Title 12, section 7821,
16 subsection 5.

17
18 **Sec. 2. 10 MRSA §1174, sub-§3, ¶K**, as amended by PL 1981, c.
19 470, Pt. A, §23, is further amended to read:

20
21 K. To compete with a motor vehicle dealer operating under
22 an agreement or franchise from the manufacturer, distributor
23 or wholesaler in the relevant market area, the area to be
24 determined exclusively by equitable principles; provided
25 that a manufacturer, distributor or wholesaler shall ~~is~~ not
26 be deemed to be competing when operating a dealership either
27 temporarily for a reasonable period in any case not to
28 exceed one year or in a bona fide relationship in which an
29 independent person has made a significant investment subject
30 to loss in the dealership and can may reasonably expect to
31 acquire full ownership of the dealership on reasonable terms
32 and conditions; and provided that a distributor shall ~~is~~ not
33 be deemed to be competing when a wholly owned subsidiary
34 corporation or the distributor sells motor vehicles at
35 retail, if, in the case of a motor vehicle dealer selling
36 motor vehicles as defined in section 1171, subsection 11,
37 paragraph A, for at least 3 years prior to January 1, 1975,
38 the subsidiary corporation has been a wholly owned
39 subsidiary of the distributor and engaged in the sale of
40 motor vehicles at retail or in the case of any other motor
41 vehicle dealer, for at least 3 years prior to January 1,
42 1997, the subsidiary corporation has been a wholly owned
43 subsidiary of the distributor and engaged in the sale of
44 motor vehicles at retail; or

2 **Sec. 3. 10 MRSA §1174, sub-§3, ¶R**, as amended by PL 1995, c.
65, Pt. A, §15 and affected by §153 and Pt. C, §15, is further
amended to read:

4
6 R. To cancel, terminate, fail to renew or refuse to
continue any franchise relationship with a licensed new
8 motor vehicle dealer, notwithstanding the terms, provisions
or conditions of any agreement or franchise or the terms or
10 provisions of any waiver, without first furnishing
notification of the termination to the new motor vehicle
dealer as follows:

12 (1) Notification under this paragraph shall must be in
14 writing, shall must be by certified mail or personally
delivered to the new motor vehicle dealer and shall
16 must contain:

18 (a) A statement of intention to terminate the
franchise, cancel the franchise or not to renew
20 the franchise;

22 (b) A statement of the reasons for the
termination, cancellation or nonrenewal; and

24 (c) The date on which the termination,
26 cancellation or nonrenewal takes effect;

28 (2) The notice described in this paragraph shall may
not be less than 90 days prior to the effective date of
30 the termination, cancellation or nonrenewal; or

32 (3) The notice described in this paragraph shall may
not be less than 15 days prior to the effective date of
34 the termination, cancellation or nonrenewal with
respect to any of the following:

36 (a) Insolvency of the new motor vehicle dealer,
38 or filing of any petition by or against the new
motor vehicle dealer under any bankruptcy or
40 receivorship law;

42 (b) The business operations of the franchised
motor vehicle dealer, in the case of a motor
44 vehicle dealer selling motor vehicles as defined
in section 1171, subsection 11, paragraph A, have
46 been abandoned or closed for 7 consecutive
business days unless the closing is due to an act
48 of God, strike or labor difficulty, or, for all
other motor vehicle dealers, have been abandoned
50 or closed for 14 consecutive business days unless

2 the closing is due to an act of God, strike or
3 labor difficulty;

4 (c) Conviction of or plea of nolo contendere of a
5 franchised motor vehicle dealer, or one of its
6 principal owners, of any Class A, B or C crime, as
7 defined in the Maine Criminal Code, Title 17-A, in
8 which a sentence of imprisonment of one year or
9 more is imposed under Title 17-A, sections 1251
10 and 1252; or

11 (d) Revocation of the franchised motor vehicle
12 dealer's license pursuant to Title 29-A, section
13 903;

14 **Sec. 4. 10 MRSA §1174-A, sub-§1**, as enacted by PL 1981, c.
15 331, §7, is amended to read:

16 **1. Notification.** In the event that a manufacturer seeks to
17 enter into a franchise establishing an additional new motor
18 vehicle dealership or relocating an existing new motor vehicle
19 dealership, within or into a relevant market area where the same
20 line make is then represented, the manufacturer shall, in
21 writing, first notify each new motor vehicle dealer in the line
22 make in the relevant market area of the intention to establish an
23 additional dealership or to relocate an existing dealership
24 within or into that market area. ~~The relevant market area shall~~
25 ~~be a radius of 5 miles around an existing dealership in the~~
26 ~~following cities: Augusta; Auburn; Bangor; Biddeford; Brewer;~~
27 ~~Falmouth; Lewiston; Portland; Saco; South Portland; Waterville;~~
28 ~~and Westbrook. The relevant market area shall be a radius of 10~~
29 ~~miles around all other existing dealerships.~~

30 A. The relevant market area must be:

31 (1) For dealers selling vehicles as defined in section
32 1171, subsection 11, paragraph A, a radius of 5 miles
33 around an existing dealership in the following cities:
34 Augusta; Auburn; Bangor; Biddeford; Brewer; Falmouth;
35 Lewiston; Portland; Saco; South Portland; Waterville;
36 and Westbrook. The relevant market area is a radius of
37 10 miles around all other existing dealerships.

38 (2) For any other motor vehicle dealer, a radius of 15
39 miles around an existing dealership in the following
40 cities: Augusta; Auburn; Bangor; Biddeford; Brewer;
41 Falmouth; Lewiston; Portland; Saco; South Portland;
42 Waterville; and Westbrook. The relevant market area is
43 a radius of 30 miles around all other existing
44 dealerships.

2 Within 30 days of receiving the notice or within 30 days after
4 the end of any appeal procedure provided by the manufacturer, any
6 such new motor vehicle dealership may file a complaint in the
8 Superior Court of the county in which the dealership is located,
10 protesting the establishing or relocating of the new motor
12 vehicle dealership. When such a complaint is filed, the
14 manufacturer may not establish or relocate the proposed new motor
16 vehicle dealership until a hearing has been held on the merits,
nor thereafter, if the court has determined that there is good
cause for not permitting the new motor vehicle dealership. For
the purposes of this section, the reopening in a relevant market
area of a new motor vehicle dealership that has not been in
operation for one year or more is deemed the establishment of an
additional new motor vehicle dealership.

18 **Sec. 5. 29-A MRSA §851, sub-§§9-A, 9-B and 12-A** are enacted to
read:

20 **9-A. Recreational vehicle.** "Recreational vehicle" means
22 an all-terrain vehicle as defined in Title 12, section 7851,
subsection 2, any watercraft as defined in Title 10, section
24 1196, subsection 6 and a snowmobile as defined in Title 12,
section 7821, subsection 5.

26 **9-B. Recreational vehicle dealer.** "Recreational vehicle
28 dealer" means a dealer whose primary business is the buying and
selling of new or used recreational vehicles, or both.

30 **12-A. Vehicle.** Notwithstanding section 101, subsection 91,
32 "vehicle" means a device for conveyance of persons or property on
a way, including recreational vehicles. "Vehicle" does not
34 include conveyances propelled or drawn by human power or used
exclusively on tracks.

36 **Sec. 6. 29-A MRSA §852, sub-§2, ¶B,** as enacted by PL 1993, c.
38 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

40 B. For a light trailer dealer, \$50; and

42 **Sec. 7. 29-A MRSA §852, sub-§2, ¶B-1** is enacted to read:

44 B-1. For a recreational vehicle dealer, \$20; and

46 **Sec. 8. 29-A MRSA §852, sub-§3,** as enacted by PL 1993, c. 683,
Pt. A, §2 and affected by Pt. B, §5, is amended to read:

48 **3. Dealer plates.** The annual fee for each dealer plate is:

50 A. For a motorcycle dealer, \$5;

- 2 B. For a light trailer dealer, \$5; and
- 4 B-1. For a recreational vehicle dealer, \$5; and
- 6 C. For any other vehicle dealer, \$20.

8 The fee for an additional plate issued to a dealer other than a
10 motorcycle dealer or a light trailer dealer after September 1st
is 1/2 of the annual plate fee.

12 For a fee of \$5 per plate, the Secretary of State shall furnish
14 dealer plates to motorcycle dealer~~s~~ dealers, recreational vehicle
dealers and light trailer dealers to replace lost or mutilated
16 dealer plates.

18 **Sec. 9. 29-A MRSA §954, sub-§6** is enacted to read:

20 6. Recreational vehicle. Recreational vehicle dealer
plates and a license may be issued to a person engaged in the
manufacturing or buying and selling of new or used recreational
22 vehicles, or both.

24 **SUMMARY**

26 This bill amends the definition of a motor vehicle in the
28 Maine Revised Statutes, Title 10 to include recreational
vehicles. This change allows for recreational vehicles to be
30 included in the provisions that regulate franchise practices.
The bill also includes specific limitations on establishing or
32 relocating dealerships to include recreational vehicle dealers
and other motor vehicle dealers. This bill amends Title 29-A to
34 include recreational vehicles in the definition of a vehicle and
makes a recreational vehicle dealer subject to the requirements
36 for dealer licensure.