

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

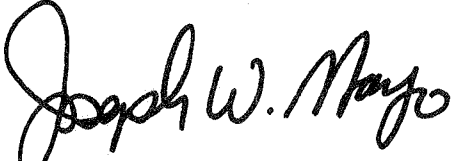
No. 1889

H.P. 1340

House of Representatives, May 23, 1997

An Act to Provide Warranty Reimbursement Protection for Retailers.

Reported by Representative VIGUE for the Joint Standing Committee on Business and Economic Development pursuant to Joint Order H.P. 1326.


JOSEPH W. MAYO, Clerk

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

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4 Sec. 1. 11 MRSA §2-316, sub-§5, as amended by PL 1975, c. 320,
is further amended to read:

6 (5) The provisions of subsections (2), (3) and (4) shall do
8 not apply to sales of consumer goods or services. Any language,
10 oral or written, used by a seller or manufacturer of consumer
12 goods and services, ~~which that~~ attempts to exclude or modify any
14 implied warranties ~~of of~~ merchantability and fitness for a
16 particular purpose or to exclude or modify the consumer's
18 remedies for breach of those warranties, ~~shall be~~ is
20 unenforceable. Any language, oral or written, used by a prior
seller or manufacturer of consumer goods and services that
attempts to exclude or modify the warranty or reimbursement
remedy of a retail seller of consumer goods and services who
provides reimbursement or return to a consumer as required to
honor an implied warranty of merchantability due to a defect for
which that prior seller or manufacturer is liable under section
2-314 or 2-315 is unenforceable. Consumer goods and services are
22 those new or used goods and services, including mobile homes,
which that are used or bought primarily for personal, family or
household purposes.

24
26 (a) A violation of ~~sections~~ section 2-314, 2-315 or 2-316,
arising from the retail sale of consumer goods and services,
28 ~~shall constitute~~ constitutes a violation of Title 5, chapter
10, Unfair Trade Practices Act.

30 (b) A violation of section 2-316 arising from an attempt by
32 a prior seller or manufacturer of consumer goods and
34 services to exclude or modify the warranty or reimbursement
36 remedy of a retail seller of consumer goods and services who
38 provides reimbursement or return to a consumer as required
to honor an implied warranty of merchantability due to a
defect for which that prior seller or manufacturer is liable
under section 2-314 or 2-315 does not constitute a violation
of Title 5, chapter 10, Unfair Trade Practices Act.

40
42 FISCAL NOTE

44 This bill may increase the number of civil suits filed in
46 the court system. The additional workload and administrative
48 costs associated with the minimal number of new cases filed can
be absorbed within the budgeted resources of the Judicial
Department. The collection of additional filing fees may also
increase General Fund revenue by minor amounts.

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SUMMARY

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6 This bill amends the Uniform Commercial Code to ensure that
8 a retail seller of consumer goods and services be eligible for
10 reimbursement from the prior seller or manufacturer of the
12 consumer good or service should the retail seller provide a
 consumer reimbursement or return to honor an implied warranty of
 merchantability. The bill specifies that a violation under this
 legislation is not a violation of the Maine Unfair Trade
 Practices Act.