

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2010

H.P. 1405

House of Representatives, March 23, 1999

An Act to Amend the Maine Lemon Laws.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative McGLOCKLIN of Embden.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: HATCH of Skowhegan, McALEVEY of Waterboro, O'NEIL of Saco, PIEH
of Bremen, SHOREY of Calais, TESSIER of Fairfield, Senator: DAVIS of Piscataquis.

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

2

3 **Sec. 1. 10 MRSA §1161, sub-§4**, as enacted by PL 1985, c. 220
4 §1, is amended to read:

6 **4. Reasonable allowance for use.** "Reasonable allowance for
7 use" means ~~that amount obtained by multiplying the total purchase~~
8 ~~price of the vehicle by a fraction having as its denominator~~
9 ~~100,000 and having as its numerator the number of miles that the~~
10 ~~vehicle traveled prior to the manufacturer's acceptance of its~~
11 ~~return 1/3 of that amount allowed per mile by the United States~~
12 ~~Internal Revenue Service as provided by regulation, revenue~~
13 ~~procedure or revenue ruling promulgated under the United States~~
14 ~~Internal Revenue Code, Title 26, Section 162 for the use of a~~
15 ~~personal vehicle for business purposes.~~

16

17 **Sec. 2. 10 MRSA §1163, sub-§2, ¶C**, as enacted by PL 1985, c.
18 220, §3, is amended to read:

19 C. ~~Costs~~ Reasonable costs incurred by the consumer for
20 towing and storage of the vehicle and for procuring
21 alternative transportation while the vehicle was ~~out of~~
22 ~~service by reason of repair~~ could not be driven because it
23 did not conform to any applicable express warranty.

24 **Sec. 3. 10 MRSA §1168, sub-§3** is enacted to read:

25 **3. Termination of lease and obligations.** The lessee's
26 lease agreement with the motor vehicle lessor and all contractual
27 obligations terminate upon a decision that the vehicle does not
28 conform to the vehicle's express warranty. The lessee may not be
29 liable to the manufacturer or motor vehicle lessor for any
30 further costs or charges under the lease agreement. The motor
31 vehicle lessor shall release the motor vehicle title to the
32 manufacturer upon payment by the manufacturer under this chapter.

33

34 **Sec. 4. 10 MRSA §1169, sub-§§1, 2 and 5**, as enacted by PL 1989,
35 c. 570, §5, are amended to read:

36 **1. Neutral new car arbitration.** All manufacturers shall
37 submit to state-certified, new car arbitration if arbitration is
38 requested by the consumer within 2 years from the date of
39 original delivery to the consumer of a new motor vehicle ~~or~~
40 ~~during the first 18,000 miles of operation~~ or within the term of
41 the express warranties, whichever comes first. State-certified
42 arbitration shall must be performed by one or more neutral
43 arbitrators selected by the Department of the Attorney General
44 operating in accordance with the rules ~~promulgated~~ adopted
45 pursuant to this chapter. The Attorney General may contract with
46 an independent entity to provide arbitration or the Attorney
47
48
49
50

2 General's office may appoint neutral arbitrators. Each party to
an arbitration is entitled to one rejection of a proposed
arbitrator.

4
6 **2. Written findings.** Each arbitration shall ~~result~~ results
in a written finding of whether the motor vehicle in dispute
8 meets the standards set forth by this chapter for vehicles that
are required to be replaced or refunded. This finding shall must
10 be issued within 45 days of receipt by the Department of the
Attorney General of a properly completed written request by a
12 consumer for state-certified arbitration under this section. All
findings of fact issuing from a state-certified arbitration shall
14 must be taken as admissible evidence of whether the standards set
forth in this chapter for vehicles required to be refunded or
16 replaced have been met in any subsequent action brought by either
party ensuing from the matter considered in the arbitration. The
18 finding reporting date may be extended by 5 days if the
arbitrator seeks an independent evaluation of the motor vehicle.
20 In addition to the other remedies provided by this chapter, the
arbitrator may award a consumer whose motor vehicle is required
to be replaced or refunded reasonable witness fees for a
22 professional motor vehicle mechanic or engineer who prepared a
notarized report on the condition of the vehicle or who testified
24 at the arbitration hearing on behalf of the consumer.

26 **5. Appeal of arbitration decision.** No An appeal by a
manufacturer or the consumer of the arbitrator's findings may not
28 be heard unless the petition for appeal is filed with the
Superior Court of the county in which the sale occurred, within
30 21 days of issuance of the finding of the state-certified
arbitration. The appeal must be a trial de novo. The arbitrator
32 and the Department of the Attorney General may not be parties in
any such appeal and may not be called as witnesses. The
34 Department of the Attorney General may submit an amicus curiae
brief.

36
38 In the event that any state-certified arbitration resulting in an
award of a refund or replacement is upheld by the court, recovery
40 by the consumer may include continuing damages up to the amount
of \$25 per day for each day subsequent to the day the motor
42 vehicle was returned to the manufacturer, pursuant to section
1163, that the vehicle was out of use as a direct result of any
44 nonconformity not issuing from owner negligence, accident,
vandalism or any attempt to repair or substantially modify the
46 vehicle by a person other than the manufacturer, its agent or
authorized dealer, provided that the manufacturer did not make a
comparable vehicle available to the consumer free of charge.

48
50 In addition to any other recovery, any prevailing consumer shall
must be awarded reasonable attorney's fees and costs. If the

2 court finds that the manufacturer did not have any reasonable
basis for its appeal or that the appeal was frivolous, the court
4 shall double the amount of the total award to the consumer.

6 **SUMMARY**

8 This bill amends the Maine lemon laws in the following ways.

10 1. An arbitrator is given greater discretion in how much
the arbitrator may award the manufacturer based on the amount of
12 miles used by a consumer whose vehicle is eventually declared a
lemon.

14 2. A consumer is allowed to receive reasonable costs of
16 alternative transportation if the vehicle is declared a lemon and
the consumer was not able to drive the vehicle due to serious
18 manufacturer defects.

20 3. A consumer's lease is terminated along with all related
contractual obligations if a leased vehicle is declared a lemon.

22 4. A consumer who applies within 2 years from the date of
24 original delivery or within the term of express warranties,
whichever comes first, is eligible for lemon law arbitration even
26 if the vehicle has exceeded 18,000 miles of operation.

28 5. A consumer whose vehicle is declared a lemon is entitled
to reasonable witness fees if the consumer had a mechanic or
30 engineer testify on the consumer's behalf.

32 6. It clarifies the type of appeal hearing a consumer or
manufacturer is eligible to receive if either disagrees with the
34 arbitrator's decision.