

MAINE STATE LEGISLATURE

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DATE: May 7, 2001

(Filing No. S-140)

BUSINESS AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 542, L.D. 1688, Bill, "An Act to Amend the Personal Sports Mobile Franchise Law"

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

Sec. 1. 10 MRSA §1244, sub-§3 is enacted to read:

3. Mediation. A franchisee may not bring an action for recovery of damages or for equitable relief under this section until a franchisee has served upon the franchisor a written demand for nonbinding mediation and either the parties have engaged in such mediation in this State with an independent mediator or 60 days have passed from the franchisor's receipt of notice of mediation, whichever occurs sooner. The service of the written notice of mediation tolls the running of any applicable statute of limitations for the subsequent 60-day period. A franchisor may not establish a new personal sports mobile dealership or relocate an existing sports mobile dealership within or into the relevant market area during this 60-day period. Notwithstanding any agreement or requirement to engage in nonbinding mediation, at the conclusion of the proceedings, the franchisee is entitled to file an action in any court in this State in accordance with section 1250-I. The results of nonbinding mediation are not admissible in the action.

Sec. 2. 10 MRSA §1250-F, sub-§1, as amended by PL 1997, c. 717, §5, is further amended to read:

~~1. Civil remedies. Any personal sports mobile dealer or franchisee who has been damaged by reason of a violation of a~~

2 ~~provision of this chapter may bring an action to enjoin that~~
3 ~~violation and to recover any damages arising from that~~
4 violation. A franchisee or personal sports mobile dealer who
5 suffers financial loss of money or property, real or personal, or
6 who has otherwise been adversely affected as a result of an
7 unfair method of competition, an unfair or deceptive act or a
8 violation of a provision of this chapter may bring an action for
9 damages and equitable relief, including injunctive relief. When
10 the franchisee or dealer prevails, the court shall award
11 attorney's fees to the franchisee or dealer regardless of the
12 amount in controversy and assess costs against the opposing
13 party. A final judgment, order or decree rendered against a
14 person in any a civil or administrative proceeding under this
15 chapter or in any a civil, criminal or administrative proceeding
16 under the federal antitrust laws, the Federal Trade Commission
17 Act, or any other part of the Maine Revised Statutes is prima
18 facie evidence against that person subject to the conditions set
19 forth in the federal antitrust laws, 15 United States Code,
20 Section 16.'

22 SUMMARY

24 This amendment strikes and replaces the text of the original
25 bill. The amendment requires that, prior to filing any court
26 action against a franchisor related to establishing or relocating
27 a personal sports mobile dealership, a franchisee must serve the
28 franchisor with a written demand for nonbinding mediation to be
29 conducted in this State. It also suspends the application of any
30 statute of limitations for the 60-day period in which the
31 nonbinding mediation is to occur and prevents a franchisor from
32 establishing a new or relocating an existing personal sports
33 mobile dealership in the relevant market during that same period.
34 The amendment also requires that the court award attorney's fees
35 and costs to the franchisee or dealer in any court action related
36 to an unfair method of competition, an unfair or deceptive act or
37 violation of the laws governing personal sports mobiles in which
38 a franchisee or dealer prevails.