

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1688

S.P. 542

In Senate, March 20, 2001

An Act to Amend the Personal Sports Mobile Franchise Law.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien", is positioned to the right of the reference text.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KNEELAND of Aroostook.
Cosponsored by Senators: CARPENTER of York, DAVIS of Piscataquis, Representatives:
BELANGER of Caribou, CARR of Lincoln, CLARK of Millinocket.

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

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

3. Arbitration. In an action brought under this section, the Superior Court shall refer the matter for arbitration in accordance with the Uniform Arbitration Act under one arbitrator appointed by the court, subject to the following provisions.

A. The cost of arbitration must be equally divided among the parties.

B. The arbitrator shall hold a hearing within 6 months of the date of filing the complaint.

C. The arbitrator shall issue a decision within 30 days of the hearing. The decision must be in writing and contain findings of fact and a determination of the issue of whether there is good cause for not permitting the proposed new personal sports mobile dealership.

D. The court shall enter judgment for the party that prevails at arbitration within 30 days of the date of the arbitrator's decision unless a party files a written objection to the entry of judgment setting forth the grounds for the objection.

E. If a party objects to entry of judgment based upon the arbitrator's decision and the party that prevailed at arbitration also prevails in any further litigation, the prevailing party is entitled to collect attorney's fees and all other costs of litigation from the party or parties that objected to the entry of the arbitrator's decision.

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 provision-of-this-chapter-may-bring-an-action-to-enjoin-that violation-and-to-recover-any-damages-arising-from-that-violation. A franchisee or personal sports mobile dealer who suffers financial loss of money or property, real or personal, or who has otherwise been adversely affected as a result of an unfair method of competition, an unfair or deceptive act or a violation of a provision of this chapter may bring an action for damages and equitable relief, including injunctive relief. When the

franchisee or dealer prevails, the court shall award treble damages and attorney's fees to the franchisee or dealer regardless of the amount in controversy and assess costs against the opposing party. A final judgment, order or decree rendered against a person in any a civil or administrative proceeding under this chapter or in any a civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act, or any other part of the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16.

SUMMARY

This bill requires the Superior Court to refer to arbitration actions dealing with the establishing or relocating of personal sports mobile dealerships. The bill also awards treble damages to a franchise that prevails in an action brought for damages due to an unfair method of competition, an unfair or deceptive act or violation of the laws pertaining to the establishing or relocating of personal sports mobile dealerships.