

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 349

S.P. 125

In Senate, January 30, 2003

An Act Regarding Implied Warranties

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CARPENTER of York.
Cosponsored by Representative DUNLAP of Old Town and
Senators: DAVIS of Piscataquis, WOODCOCK of Franklin, Representatives: ANDREWS of
York, CAMPBELL of Newfield, COURTNEY of Sanford, HONEY of Boothbay.

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

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Sec. 1. 11 MRSA §2-316, sub-§(5), as amended by PL 1997, c. 497, §1, is further amended to read:

(5) The provisions of subsections (2), (3) and (4) do not apply to sales of consumer goods or services, except for used outdoor power equipment when the seller is a merchant with respect to goods of that kind. Any language, oral or written, used by a seller or manufacturer of consumer goods and services that attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify the consumer's remedies for breach of those warranties is 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 those new or used goods and services, including mobile homes, that are used or bought primarily for personal, family or household purposes.

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

(b) A violation of section 2-316 arising from an attempt by a prior seller or manufacturer of consumer goods and services 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 does not constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

SUMMARY

This bill allows merchants who sell used outdoor power equipment to exclude or modify all implied warranties of fitness when selling those products, provided that those merchants follow the procedures for exclusion or modification of such warranties that exist under current law.