

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 498

S.P. 171

In Senate, February 5, 2003

**An Act To Regulate Business Practices between Manufacturers,
Distributors and Dealers of Power Equipment, Machinery and
Appliances**

Reference to the Committee on Judiciary 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, KNEELAND of Aroostook, LEMONT of York, SAVAGE of
Knox, WESTON of Waldo.

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

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4 Sec. 1. 10 MRSA §1367, as enacted by PL 1993, c. 195, §1, is repealed and the following enacted in its place:

6 §1367. Manufacturer's and franchisor's warranty obligations

8 1. Obligation to dealers or distributors. A manufacturer shall honor, in a timely fashion, an obligation to a dealer or distributor to replace goods, reimburse or pay costs and expenses or provide services arising as a result of a warranty, franchise agreement or other agreement subject to this chapter.

14 2. Rate of compensation of franchisee. If a franchisor requires or permits a franchisee to perform labor or provide parts in satisfaction of a warranty created by the franchisor, the franchisor shall reimburse the franchisee for any parts so provided at the retail rate customarily charged by that franchisee for the same parts when not provided in satisfaction of a warranty. Further, the franchisor shall reimburse the franchisee for any labor so performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty as long as the franchisee's rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customers. Any claim made by a franchisee for compensation for parts provided or for reimbursement for labor performed in satisfaction of a warranty must be either approved or disapproved within 30 days of its receipt. Any claim that is approved must be paid within 30 days of its approval. When a claim is disapproved, the franchisee that submitted it must be notified in writing of its disapproval within the required 30-day period, together with the specific reasons for its disapproval. If the franchisee brings legal action to collect the disapproved claim and is successful in the action, the court shall award the franchisee the cost of the action together with reasonable attorney's fees. Reasonable attorney's fees must be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the dealer.

40 A franchisor may not, by agreement, by restriction upon reimbursement or otherwise, restrict the nature or extent of labor performed or parts provided so that such restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor in a professional manner or by providing parts required in accordance with generally accepted standards.

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SUMMARY

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This bill requires that franchisors of power equipment, machinery and appliances reimburse franchisees at the franchisees' retail rates for parts or labor supplied in satisfaction of the franchisors' warranties. The bill also requires that franchisors approve or disapprove franchisees' reimbursement claims within 30 days of submission and pay claims within 30 days of approval. Finally, the bill enables franchisees who bring successful legal actions for reimbursement to receive costs and legal fees and prohibits certain agreements that would impair the franchisees' ability to perform warranty work in a professional manner.