

# MAINE STATE LEGISLATURE

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MS

L.D. 1294

DATE: 5-19-03

(Filing No. S-184)

**BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

Reported by:

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**STATE OF MAINE  
SENATE  
121ST LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 425, L.D. 1294, Bill, "An Act To Amend the Motor Vehicle Franchise Law"

Amend the bill by inserting after section 3 the following:

'Sec. 4. 10 MRSA §1171-B, sub-§3, as enacted by PL 1997, c. 521, §5, is amended to read:

3. **Civil penalty.** If the Secretary--of--State board determines after a proceeding conducted in accordance with the ~~Maine-Administrative-Procedure-Act-and-rules-of-the-Secretary-of-State~~ this chapter that a manufacturer or distributor is violating or has violated any provision of this chapter or any rule or order of the Secretary-of-State board issued pursuant to this chapter, the Secretary-of-State board shall levy a civil penalty of not less than \$1,000 nor more than \$10,000 for each violation. If the violation involves multiple transactions within a 60-day period, these multiple transactions are deemed a single violation.

In determining the amount of a civil penalty levied under this chapter, the Secretary-of-State board shall consider:

A. The seriousness of the violation, including but not limited to the nature, circumstances, extent and gravity of the prohibited acts and the harm or potential harm created to the safety of the public;

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT "A" to S.P. 425, L.D. 1294

- 2 B. The economic damage to the public caused by the violation;
- 4 C. Any previous violations;
- 6 D. The amount necessary to deter future violations;
- 8 E. Efforts made to correct the violation; and
- 10 F. Any other matters that justice may require.'

12 Further amend the bill in section 5 in paragraph B in the  
14 14th line (page 1, line 49 in L.D.) by striking out the  
16 following: "365" and inserting in its place the following: '90'  
18 and in the 18th line (page 2, line 3 in L.D.) by striking out the  
following: "365-day" and inserting in its place the following:  
'90-day'

20 Further amend the bill in section 9 in the indented  
22 paragraph in the 14th line from the end (page 4, line 50 in L.D.)  
24 by striking out the following: "30" and inserting in its place  
the following: '30 60' and in the 13th line from the end (page 4,  
line 51 in L.D.) by striking out the following: "30" and  
26 inserting in its place the following: '30 60' and in the 12th  
line from the end (page 5, line 1 in L.D.) by striking out the  
following: "180" and inserting in its place the following: '90'

28 Further amend the bill in section 11 in that part designated  
"§1187." in subsection 1 in paragraph A in subparagraph (1) in  
30 the first line (page 5, line 47 in L.D.) by striking out the  
following: "Four" and inserting in its place the following:  
32 'Three'

34 Further amend the bill in section 11 in that part designated  
"§1187." in subsection 1 in paragraph A in subparagraph (3) in  
36 the first line (page 6, line 2 in L.D.) by striking out the  
following: "A member" and inserting in its place the following:  
38 'Two members'

40 Further amend the bill in section 11 in that part designated  
"§1187-A." in the first paragraph in the 2nd line from the end  
42 (page 7, line 11 in L.D.) by inserting after the following:  
"required." the following: 'If additional funding is required,  
44 the board shall meet those funding requirements by adopting rules  
pursuant to section 1187, subsection 6 to impose additional fees  
46 on motor vehicle dealers or manufacturers. In establishing those  
fees, the board shall ensure that revenues from those fees  
48 closely match the costs of the board to administer and enforce  
this chapter. The board may amend those rules biennially as

2 necessary to ensure that the board has sufficient funds to  
3 administer and enforce this chapter.'

4 Further amend the bill in section 11 in that part designated  
5 "~~§1187-A.~~" in the 2nd paragraph in the 5th and 6th lines (page 7,  
6 lines 18 and 19 in L.D.) by striking out the following: "which  
7 must be 1/2 the salary of the Bureau of Motor Vehicle's attorney  
8 assigned to the board."

10 Further amend the bill in section 11 in that part designated  
11 "~~§1188.~~" in subsection 2 in the 2nd line (page 7, line 31 in  
12 L.D.) by inserting after the following: "franchisee" the  
13 following: 'or franchisor'

14 Further amend the bill by inserting after section 11 the  
15 following:

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17 **'Sec. 12. Position created.** An attorney position is created  
18 within the Department of the Secretary of State, Bureau of Motor  
19 Vehicles. The incumbent in that position serves as the full-time  
20 chair of the Maine Motor Vehicle Franchise Board, as provided by  
21 the Maine Revised Statutes, Title 10, section 1187. This  
22 position is funded entirely from the Maine Motor Vehicle  
23 Franchise Fund, as provided in Title 10, section 1187-A.

24  
25 **Sec. 13. Appropriations and allocations.** The following  
26 appropriations and allocations are made.

27 **SECRETARY OF STATE, DEPARTMENT OF THE**

28 **Bureau of Administrative Services and Corporations 0692**

29 Initiative: Allocates funds for one Attorney position and  
30 operating costs necessary to staff the Maine Motor Vehicle  
31 Franchise Board.

Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(1.000)	(1.000)
Personal Services	\$51,188	\$74,057
All Other	\$13,788	\$10,488
Capital Expenditures	\$15,297	\$0
Other Special Revenue Funds Total	\$80,273	\$84,545'

32  
33 Further amend the bill by relettering or renumbering any  
34 nonconsecutive Part letter or section number to read  
35 consecutively.

H. 45

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**SUMMARY**

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This amendment retains the provision in the bill that prohibits automobile franchisors from recovering costs for reimbursing a franchisee for parts and labor. The amendment changes the length of time allowed for filing various notices and claims proposed in the bill, changes the composition of the proposed Maine Motor Vehicle Franchise Board by reducing from 4 to 3 the number of members who are motor vehicle dealers and by increasing from one to 2 the number of public members and clarifies that the board, rather than the Secretary of State, has the authority to levy civil penalties for violations of the laws governing business practices between motor vehicle manufacturers, distributors and dealers.

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The amendment also creates a position in the Bureau of Motor Vehicles to serve as the full-time chair of the Maine Motor Vehicle Franchise Board. Compensation for that position and all costs for the operation of the board are paid entirely from the Maine Motor Vehicle Franchise Fund, which is funded by fees paid by automobile franchisees and franchisors.

**FISCAL NOTE REQUIRED**  
(See attached)



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1294**

**An Act To Amend the Motor Vehicle Franchise Law**

**LR 1735(02)**

**Fiscal Note for Bill as Amended by Committee Amendment "A" S-184**

**Committee: Business, Research and Economic Development**

**Fiscal Note Required: Yes**

**Fiscal Note**

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$80,273	\$84,545	\$87,927	\$91,444
<b>Revenue</b>				
Other Special Revenue Funds	\$89,850	\$119,800	\$119,800	\$119,800

**Correctional and Judicial Impact Statements**

This bill may decrease the number of civil suits filed in the court system

**Fiscal Detail and Notes**

The Department of the Secretary of State will need additional Other Special Revenue Funds allocations of \$80,273 and \$84,545 in fiscal years 2003-04 and 2004-05, respectively, for the costs of one Attorney position. The bill also establishes new dedicated fees to be collected by the Maine Motor Vehicle Franchise Board; the estimated amounts are \$89,850 and \$119,800 in fiscal years 2003-04 and 2004-05, respectively.