

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 391

H.P. 293

House of Representatives, January 25, 2005

An Act To Amend the Maine Motor Vehicle Franchise Board Laws

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RECTOR of Thomaston.
Cosponsored by Senator HOBBS of York and
Representatives: AUSTIN of Gray, BEAUDETTE of Biddeford, JACOBSEN of Waterboro,
SMITH of Monmouth, Senator: BROMLEY of Cumberland.

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

4 **Sec. 1. 5 MRSA §9051, sub-§1**, as amended by PL 1991, c. 885, Pt. D, §2, is further amended to read:

6 **1. Adjudicatory proceeding.** In any adjudicatory
8 proceedings, except those proceedings involving correctional
10 facilities, the Workers' Compensation Board, the Maine Motor Vehicle Franchise Board or the State Parole Board, the procedures of this subchapter shall apply.

12 **Sec. 2. 10 MRSA §1187, sub-§1**, as enacted by PL 2003, c. 356, §12, is amended to read:

14 **1. Membership.** The board consists of 7 regular members and
16 4 alternate members:

18 A. ~~Six~~ Ten members appointed by the Governor:

20 (1) Three regular members and 2 alternate members who
22 are or have been franchised new motor vehicle dealers in the State of Maine;

24 (2) A regular member and an alternate member who ~~is~~
26 are or has have been ~~an--employee~~ employees or
representative representatives of ~~a---franchiser~~
28 franchisors; and

30 (3) Two regular members and one alternate member who
are members of the public; and

32 B. One regular member appointed by the Secretary of State
34 who is not and has not been either a motor vehicle dealer or
36 manufacturer representative and who is an attorney employed
by the Secretary of State and assigned to the Bureau of
Motor Vehicles.

38 **Sec. 3. 10 MRSA §1187, sub-§3**, as enacted by PL 2003, c. 356,
40 §12, is amended to read:

42 **3. Terms.** ~~Appointments~~ Regular appointments to the board
are for 5-year terms. A member may not serve more than 2
44 consecutive 5-year terms. The terms of the initial board members
must be staggered, with 2 members serving a term of 3 years, 2
46 members serving a term of 4 years and 2 members serving a term of
5 years. Alternate members serve without terms. The term of the
member who serves as chair is without limit.

48 **Sec. 4. 10 MRSA §1188, sub-§§5 and 6**, as enacted by PL 2003, c.
50 356, §12, are amended to read:

2 **5. Interim order.** Shall levy a civil penalty pursuant to
4 section 1171-B, subsection 3 when a party to a complaint under
6 this subchapter is found to have recklessly or knowingly failed,
neglected or refused to comply with an interim order issued by
the board; and

8 **6. Procedures.** May appoint persons to be present at the
10 deposition of out-of-state witnesses, administer oaths, issue
subpoenas to compel the presence of witnesses or documents and
12 authorize stenographic or recorded transcripts of proceedings;
and

14 **Sec. 5. 10 MRSA §1188, sub-§7** is enacted to read:

16 **7. Alternate members.** Alternates are empowered to hear
18 cases and carry out other duties of the board when regular board
members from the same category are unable or unwilling to carry
20 out those duties. The chair shall select alternate members to
perform duties under this subsection.

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SUMMARY

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26 This bill makes technical amendments to the Maine Motor
Vehicle Franchise Board laws to provide for alternate members and
to clarify that the board has adopted its own adjudicatory rules,
28 which makes the board exempt from parallel Maine Administrative
Procedure Act requirements.