

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 653

S.P. 208

In Senate, February 8, 2005

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

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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 SAVAGE of Knox.  
Cosponsored by Representative SMITH of Monmouth and  
Senators: NUTTING of Androscoggin, SNOWE-MELLO of Androscoggin, TURNER of  
Cumberland, WESTON of Waldo, Representative: RICHARDSON of Warren.

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4       Sec. 1. 10 MRSA §1367, as enacted by PL 1993, c. 195, §1, is repealed and the following enacted in its place: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. Manufacturer's 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 or 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. 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 from the franchisor for parts provided or for reimbursement from the franchisor for labor performed in satisfaction of a warranty must be either approved or disapproved by the franchisor within 30 days of its receipt. Any claim that is approved must be paid within 30 days of its approval. When a franchisee's claim is disapproved, the franchisor shall notify the franchisee in writing of the disapproval within the required 30-day period and include the specific reasons for the 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 franchisee.

42       A franchisor may not by agreement, by restriction upon reimbursement or by any other method 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 agreements that would impair the franchisees' ability to perform warranty work in a professional manner.