

MAINE STATE LEGISLATURE

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Date: 5/23/11

L.D. 187
(Filing No. H-324)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 164, L.D. 187, Bill, "An Act To Amend the Laws Regulating Dealers of Agricultural, Light Industrial and Forestry Equipment"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Laws Regulating Dealers of Agricultural, Industrial, Construction and Forestry Equipment'

Amend the bill in section 1 by striking out all of subsection 2 (page 1, lines 4 to 12 in L.D.) and inserting the following:

'2. Dealer. "Dealer" means a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, forestry equipment, industrial equipment, construction equipment, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. ~~"Dealer" does not include a person, corporation or partnership primarily engaged in the business of retail sales of heavy construction, industrial and utility equipment, attachments, accessories and repair parts.~~ "Dealer" does not include a person, corporation or partnership primarily engaged in the retail sale of all-terrain vehicles or motorcycles. "Dealer" does not include a single-line dealer as defined in subsection 5-A.'

Amend the bill in section 2 by striking out all of subsection 4 (page 1, lines 15 to 17 in L.D.) and inserting the following:

'4. Inventory. "Inventory" means farm, forestry, utility or industrial equipment, construction equipment, implements, machinery, yard and garden equipment, attachments or repair parts. ~~These terms do not include heavy construction equipment.'~~

Amend the bill in section 3 in subsection 5-A in paragraph B in the last line (page 1, line 24 in L.D.) by striking out the following: "\$20,000,000" and inserting the following: '\$100,000,000'

Amend the bill by inserting after section 3 the following:

COMMITTEE AMENDMENT

1 **'Sec. 4. 10 MRSA §1286**, as amended by PL 2009, c. 325, Pt. B, §1 and affected
2 by §27, is further amended to read:

3 **§1286. Usage of trade**

4 The terms "~~utility~~" "utility," "forestry," "construction" and "industrial," when used to
5 refer to equipment, machinery, attachments, yard and garden equipment or repair parts,
6 have the meanings commonly used and understood among dealers and suppliers of farm
7 equipment as usage of trade in accordance with Title 11, section 1-1303, subsection (3).'

8 Amend the bill in section 7 in §1289 in subsection 2 in paragraph A in the 2nd line
9 (page 2, line 31 in L.D.) by striking out the following: "and light industrial equipment,"
10 and inserting the following: 'and, industrial and construction equipment'

11 Amend the bill in section 7 in §1289 in subsection 4 in the 3rd line (page 3, line 19 in
12 L.D.) by striking out the following: "2%" and inserting the following: '1 1/2%'

13 Amend the bill in section 14 by striking out all of paragraph B (page 4, lines 17 to 26
14 in L.D.) and inserting the following:

15 'B. A dealer that performs warranty work as provided for in this section must be
16 compensated for parts used in fulfilling such warranty work in an amount that is not
17 less than the dealer's costs for such parts plus 15% 20% or the supplier's suggested
18 retail price for such parts, including whichever is greater, plus all freight and handling
19 charges applicable to such parts, to reimburse the dealer's reasonable costs of doing
20 business and providing such warranty service on behalf of the supplier. If the
21 warranty work is provided on behalf of the supplier on a product sold by a
22 nonservicing dealer, the compensation for parts used in fulfilling such warranty work
23 must be at an amount that is not less than the supplier's suggested list price or dealer's
24 cost plus 30%, whichever is greater, plus freight and handling charges applicable to
25 such parts.'

26 Amend the bill by inserting after section 14 the following:

27 '**Sec. 15. 10 MRSA §1293-A** is enacted to read:

28 **§1293-A. Prohibited acts**

29 A supplier may not:

30 **1. Coercion involving deliveries and orders.** Mandate, coerce or attempt to coerce
31 any dealer to order or accept delivery of equipment or repair parts not required by law
32 that have not been voluntarily ordered by the dealer, unless the equipment or repair parts
33 are comprised of safety features required by the supplier;

34 **2. Interference in dealer's business.** Require any dealer to refrain from
35 participation in the management or acquisition of, or investment in, any other business; or

36 **3. Coercion involving sale of equipment.** Prevent, coerce or attempt to coerce a
37 dealer from having an investment in or holding a dealership contract for the sale of
38 competing product lines or makes of equipment or require the dealer to provide separate
39 facilities for competing product lines or makes of equipment.

COMMITTEE AMENDMENT "A" to H.P. 164, L.D. 187

1 6. It prohibits a supplier from mandating, coercing or attempting to coerce any dealer
2 to order or accept delivery of equipment or repair parts not required by law that have not
3 been voluntarily ordered by the dealer, unless the equipment or repair parts are comprised
4 of safety features required by the supplier; requiring any dealer to refrain from
5 participation in the management or acquisition of, or investment in, any other business; or
6 preventing, coercing or attempting to coerce a dealer from selling competing products
7 lines or makes of equipment or requiring the dealer to provide separate facilities for
8 competing product lines or makes of equipment.

9 7. It adds a statement of legislative findings and intent and adds an application
10 section that provides that the provisions of the bill apply to all contracts and agreements
11 in effect on the effective date of the bill that have no expiration date and are continuing
12 contracts and all other contracts and agreements entered into, amended, renewed or
13 extended after the effective date of the bill.

FISCAL NOTE REQUIRED

(See attached)



Approved: 04/29/11 *MAC*

125th MAINE LEGISLATURE

LD 187

LR 197(02)

An Act To Amend the Laws Regulating Dealers of Agricultural, Light Industrial and Forestry Equipment

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.