

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-eighth and Eighty-ninth
Legislatures

OF THE

STATE OF MAINE

From April 24, 1937 to April 21, 1939

AND

MISCELLANEOUS STATE PAPERS

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Eighty-ninth Legislature

1939

Chapter 239

AN ACT Relating to Guaranty of Titles of Motor Vehicles and to the Facilitation of the Recovery of Stolen Motor Vehicles.

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

Article I

Sale of Used or Second-hand Motor Vehicles Regulated.

Sec. 1. Sale of used motor vehicles by nonresidents regulated. Every person, firm, association, trust or corporation that brings any used, or second-hand motor vehicle into the state of Maine for the purpose of sale, resale or trade-in shall within 10 days from the date that said motor vehicle is brought into the state, register such motor vehicle with the secretary of state on a form to be provided by said secretary of state. For each such registration, a fee of \$5 shall be paid to the secretary of state. Every person, firm, association, trust or corporation that intends to bring any used or second-hand motor vehicle into the state of Maine for the purpose of sale, resale or trade-in on a new motor vehicle or as a trade-in on another used or second-hand car of greater value than the vehicle so brought into this state for the purpose of sale or resale, shall have executed a bond in the sum of \$5000 with 2 good and sufficient sureties or with a surety company duly authorized to do business in the state, payable to the secretary of state for the use and benefit of the purchaser of any of the before mentioned vehicles conditioned to pay all loss, damages and expenses that may be sustained by the said purchaser by reason of the failure of the title of such vendor as guaranteed under the provisions of section 2 hereof, or by reason of any fraudulent misrepresentation or breaches of warranty as to freedom from liens, which bond shall be filed with the secretary of state and be approved by him before any of the before mentioned cars shall be brought into the state. Such bond shall be for a period of 1 year, and a new bond must be executed each year if the said person, firms, associations, trust or corporations do said business in the state. A fee of \$5 shall be paid for the filing of each bond.

Sec. 2. Guarantee of title. Every person, firm or corporation upon the sale and delivery of any used, or second-hand motor vehicle shall within 24 hours thereof execute and deliver to the vendee, a bill of sale carrying guarantee of title of said vehicle by the vendor on a form to be provided by the secretary of state.

Sec. 3. Limitation of vendor's rights. No action, nor right of action to recover any such motor vehicle, nor any part of the selling price thereof, shall be maintained in the courts of this state by any such dealer or vendor,

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his successors or assigns, in any case wherein such vendor or dealer shall have failed to comply with the terms and provisions of this article.

Sec. 4. Definitions. The terms "dealer" and "vendor" herein used shall be construed to include every individual, partnership, association, corporation or trust whose business in whole or in part, is that of selling new or used motor vehicles, and every agent, representative, or consignee of any such dealer or vendor as fully as if same had been herein expressly set out, except that no agent, representative or consignee of such dealer or vendor shall be required to make and file the said bond if such dealer or vendor for whom such agent, representative or consignee acts fully complies, in each instance, with the provisions of this article. Wherever in this act the term "used motor vehicle" or "second-hand motor vehicle" is used, it shall mean any car that has been operated on any way except those cars purchased, or contracted for, by dealers from the manufacturer or its duly authorized agent which cars have not been sold to a consumer.

Sec. 5. Inventory required. All dealers in motor vehicles who come within the terms of this act shall take an inventory, as of July 31 in each year, of all used and second-hand motor vehicles which they then have on hand; such inventory shall be on forms to be provided by the secretary of state, sworn to under oath and shall be filed with the secretary of state annually within 30 days after each such inventory is taken.

Sec. 6. Penalty. Any vendor or dealer, as in this article defined, upon conviction of violation of any of the provisions of this article, shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 30 days nor more than 6 months, or by both such fine and imprisonment.

Article II

Certificate of Title for Motor Vehicles.

Sec. 1. Certificate of title for motor vehicles. After the effective date of this act, no certificate of the registration of any vehicle or number plates therefor, whether original issues, or duplicates, shall be issued or furnished by the secretary of state unless the applicant therefor shall at the same time make application for and be granted an official certificate of title, or unless such a certificate covering such motor vehicle has been previously issued to the applicant. Said application shall be upon a blank form to be furnished by the secretary of state and shall contain the manufacturer's number, the motor number, and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon said motor vehicle, and such other information as the secretary of state may require. The secretary of state, if satisfied that the applicant is the

owner of such motor vehicle, or otherwise entitled to have the same registered in his name, shall thereupon issue to the applicant an appropriate certificate of title over his signature, authenticated by a seal to be procured and used for such purpose. Such certificate of title shall be delivered to the person applying therefor unless the applicant, shall, in his application, in such form as the secretary of state shall prescribe, direct or require the delivery of said certificate to some other designated person, firm or corporation, in which case the secretary of state shall cause said certificate to be delivered or forwarded in accordance with the application. The charge for each original certificate of title so issued shall be \$1, which charge shall be in addition to the charge for the registration of such motor vehicle. Said certificate shall be good so long as the same is owned or held by the original holder of such certificate, and need not be renewed annually, or at any other time except as herein provided. Any lien made subsequently where ownership does not change, shall become a part of the certificate of title by the filing with the secretary of state, of an affidavit of the mortgagee that said lien has been placed upon the vehicle described in said certificate of title, and thereupon a new certificate of title shall be issued by the secretary of state to the registered owner only, the fee for which shall be 50c. Any mortgage or other lien on said motor vehicle may be discharged, in the title records in the secretary of state's office, by presenting to the secretary of state, the affidavit of the mortgagee that the same has been paid or a receipt from the mortgagee showing such payment or any other evidence which shall satisfy the secretary of state that the lien has been discharged, whereupon the secretary of state shall issue a new certificate of title showing liens discharged, the fee for which shall be 50c, such certificate of title to be issued to the registered owner only. The secretary of state shall file all applications for certificate of title in his office and keep a complete and accurate record of the same, which shall be preserved for a period of 6 years after the date of issuing the original certificate of title. The secretary of state may cancel any title and issue a new certificate upon proper proof that the motor vehicle has been repossessed either by the dealer or any lien holder holding a legal or undischarged lien. In the case of lost certificates of title or registration, the loss of which is accounted for to the satisfaction of the secretary of state, duplicates may be issued, the charge therefor to be 50c each.

Sec. 2. Transfer of ownership; duties of holder of certificate, purchaser and secretary of state; fee; transfer by operation of law. In the event of the sale or other transfer after the effective date of this act, of the ownership of a motor vehicle for which a certain certificate of title has been issued as aforesaid, the holder of such certificate shall endorse thereon an assignment thereof with warranty of title in the form printed thereon with a statement of all liens or encumbrances on said motor vehicle, sworn to

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before some person authorized to take acknowledgments, and deliver the same to the purchaser or transferee at the time of the delivery to him of such motor vehicle, which shall show the payment or satisfaction of any mortgage or lien as shown on the original title. The purchaser or transferee, unless such person is a dealer licensed under sections 62-A to 62-D of chapter 29 of the revised statutes, shall within 10 days thereafter present such certificate, assigned as aforesaid, to the secretary of state, accompanied by a fee of \$1, whereupon a new certificate of title shall be issued to the assignee; provided, however, if such person shall, in such manner and form as the secretary of state prescribes, authorize and direct the delivery of the certificate of title to some other designated person, firm or corporation delivery shall be made accordingly. It shall be the duty of the secretary of state, in all certificates of title hereafter issued, to provide suitable space for such authorization. Said licensed dealer shall on selling or otherwise disposing of said motor vehicle, execute and deliver to the purchaser thereof an affidavit of conveyance or assignment in such form as the secretary of state shall prescribe, to which shall be attached the assigned certificate of title received by such dealer. The purchaser of said motor vehicle shall within 10 days from its purchase apply for a certificate of title from the secretary of state. Said certificate, when so assigned and returned to the secretary of state, together with any subsequent assignments or reissues thereof, shall be retained by the secretary of state and appropriately filed and indexed. Provided, whenever the ownership of any motor vehicle shall pass by operation of law, the purchaser, may, upon furnishing proof thereof satisfactory to the secretary of state of such ownership, procure title to said motor vehicle regardless of whether a certificate of title has ever been issued. All funds derived from the operation of this act shall be first applied to cover the administration cost of the act and the balance thereof shall be paid into the general funds of the state.

Sec. 3. Refusal to issue certificate of title; revocation. If the secretary of state shall determine at any time that an applicant for a certificate of title of a motor vehicle is not entitled thereto, he may refuse to issue such certificate or to register such vehicle, and may for a like reason and after notice and hearing, revoke any registration already acquired or any outstanding certificate of title. Said notice shall be served on the person or by registered mail. Any person aggrieved by the decision or finding of the secretary of state may appeal therefrom in the manner provided in section 46 of chapter 29 of the revised statutes.

Sec. 4. Report of stolen and recovered motor vehicles; duty of peace officer, etc.; sale, etc., of abandoned cars; lien act not affected; report. It shall be the duty of every officer authorized by law to make arrests to report immediately to the secretary of state all motor vehicles reported to

him as stolen, or recovered, upon forms provided by the secretary of state. Upon receipt of such information, the secretary of state shall file the same in an index to be classified as "stolen motor vehicle index." The secretary of state shall also file reports of stolen and recovered motor vehicles reported to him by other states and jurisdictions. The secretary of state shall publish once a month a list of all motor vehicles stolen and not reported as recovered within the month, and forward a copy of such list to every sheriff, the commanding officer of the state police, and all police departments in cities and towns of over 3000 inhabitants. Such list shall also be forwarded to the commissioners of motor vehicles or other proper officials in every other state. Before issuing a certificate of title, as heretofore provided, the secretary of state shall check the motor and serial number as set forth on the application for motor vehicle to be registered, against the "stolen motor vehicle index." All peace officers who have any notice of a motor vehicle being stolen must immediately notify the secretary of state of the recovery of such vehicle. The secretary of state shall keep a file showing all motor vehicles recovered. It shall be the duty of the sheriff, or any other peace officer, to report to the secretary of state all cars found abandoned and the same shall be taken in custody, and held by said sheriff or other peace officer for a period of 60 days after personal notice by registered mail to the registered owner of the motor vehicle so taken in custody, after which the said vehicle may be sold at public auction in the same manner and after the same notice required in sales of property seized on chattel mortgage. Any surplus received at said sale shall, after all charges of said sheriff or other peace officer have been paid and satisfied and all costs of sale have been deducted, shall be returned to the owner of said motor vehicle if found; otherwise paid into the general funds. Any car left in a garage for more than 15 days, where the same has not been left by the owner of the registered title under a contract of storage, shall be deemed an abandoned car, and shall be reported by the garage-keeper to the sheriff of the county, and any garage-keeper who fails to so report at the end of 15 days shall forfeit all claims for storage of such vehicle. All abandoned cars, left in garage, shall be turned over to the sheriff of the county to be by him sold after being advertised once each week for 2 consecutive weeks in a newspaper printed and circulated in the county in which the motor vehicle has been abandoned, and it shall be the duty of the sheriff to conduct such sale, after having advertised as herein provided, to the highest bidder, and moneys derived from said sale after expenses deducted for sale, shall be paid into the general fund. Sheriffs shall report all abandoned cars to the secretary of state's office, immediately upon receiving report that such car has been abandoned, giving the kind, style, motor number and the license number, and it shall be the duty of the secretary of state's office to check the sheriff's report immediately with the stolen car report file, and notify the owner, and the last known lien-holder,

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if any, as shown by the record, by registered mail, that such car is an abandoned car and held in custody of an officer. It shall be the duty of all garage-keepers, when any motor vehicle is left in such garage for repairs or inspection to report to the secretary of state all cases where the engine number or serial number has been changed or obliterated.

Sec. 5. Sale of motor vehicle as scrap; certificate of junking. Any owner, who sells a motor vehicle as scrap, or to be destroyed or junked, shall assign the certificate of title thereto to the person to whom the motor vehicle is sold, but without delivering such assigned certificate of title to the purchaser, shall return it to the secretary of state immediately, with an application for a certificate of junking; whereupon the secretary of state shall issue to the person shown as the assignee, a certificate of junking which shall authorize the holder thereof to possess, transport, or, by endorsement, transfer ownership in such junked motor vehicle, and a certificate of title shall not again be issued for such motor vehicle, provided that such motor vehicle has been scrapped or destroyed, or junked and dismantled.

Sec. 6. Cancellation of title in certain case; sale of car to nonresident, notice. The secretary of state, upon receipt of notification from another state or foreign country that a certificate of title issued by the department has been surrendered by the owner in conformity with the laws of such other state or foreign country, may cancel such record of certificate of title. In case a motor vehicle titled under this article is sold to a non-resident of this state, the seller of such motor vehicle shall notify the secretary of state within 10 days on forms prescribed by him for such purpose.

Sec. 7. When special number assigned; certificate of inspection; defacing number on motor vehicle, penalty; intent of section. The owner of a motor vehicle, the engine or serial number of which has been altered, removed or defaced, may within 30 days from the date this act takes effect, make application in such form as may be prescribed by the secretary of state accompanied by a fee of \$1 for a special number. He shall furnish such information as will satisfy the secretary of state that he is the owner, whereupon the secretary of state shall assign a special number for the motor vehicle preceded by a symbol indicating this state. A record of special numbers so assigned shall be maintained by the secretary of state.

The owner shall stamp said number upon the engine or otherwise as directed by the secretary of state and upon receipt by the secretary of state of a certificate by a peace officer that he has inspected and found said number stamped upon the motor vehicle as directed, in a workmanlike manner, together with application for a certificate of title such special number shall be regarded as the engine or serial number of said motor vehicle.

Any person who with fraudulent intent shall deface, destroy or alter the engine or serial number of a motor vehicle or shall place or stamp other than the original engine or serial number upon a motor vehicle, or shall sell or offer for sale any motor vehicle bearing an altered or defaced engine or serial number or a number other than the original or a number assigned as above provided shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

This section shall not be construed to prohibit the restoration by the owner of an engine or serial number of a motor vehicle for which the certificate of title has been issued by this state, nor to prevent any manufacturer or importer, or agents, thereof, other than a dealer, from placing or stamping in the ordinary course of business, numbers on motor vehicles or parts thereof removed or changed and replacing the numbered parts.

Sec. 8. Secretary of state; deputies, appointment, payment, duties. The secretary of state, with the approval of the governor and council may appoint such deputies and agents as is found necessary to carry out the provisions of this act.

Article III

Filing of Applications.

Sec. 1. R. S., c. 29, § 50, amended. Section 50 of chapter 29 of the revised statutes, as amended by chapter 58 of the public laws of 1933, is hereby further amended as follows:

'Sec. 50. Motor vehicles and trailers to be registered; applications; secretary of state may refuse registration. No motor vehicle or trailer shall be operated, or remain, upon any way unless the same is registered and equipped in accordance with the provisions of this chapter. Application for such registration may be made by mail or otherwise to the secretary of state upon blanks prepared under his authority. The application shall be signed by the owner and shall contain such particulars as may be required by the secretary of state, including the name, residence and address of the 2 **previous** owners, with a brief description of the vehicle, the name of its maker, the motor and serial numbers, the character of the motive power and the amount of such power, stated in figures of horse power, and the actual weight of the vehicle, and its load capacity, if intended for commercial use. The secretary of state shall maintain a file of said applications arranged alphabetically according to the name of the applicant, and in addition thereto shall maintain a file arranged under the name of each make of motor vehicle with the manufacturer's engine or serial numbers. The applicant shall state in his application the kind of lens used in

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the headlights upon his motor vehicle, and shall specify whether he has complied with the rules and regulations of the secretary of state. The applicant shall also file in such form and on such blanks as shall be required by the secretary of state, a statement of the applicant's title to his motor vehicle, including the name of the person, firm or corporation from whom the same was purchased, together with a statement of all liens or encumbrances upon said vehicle, and the names and addresses of all persons having any interest therein, and the nature of every such interest, the names of 2 previous owners, and such other details as the said secretary of state may require. In case said applicant has not given satisfactory answers, the secretary of state shall refuse to register such vehicle, or to issue a license for its operation.'

Sec. 2. R. S., c. 29, § 54, amended. The last paragraph of section 54 of chapter 29 of the revised statutes, as amended, is hereby further amended to read as follows:

'On any application for registration applied for by an owner resident of this state, of a motor vehicle or trailer or semitrailer, not including a log hauler, or traction engine, during the period between the 1st day of September and the 31st day of December, $\frac{1}{2}$ the registration fee shall be charged. The secretary of state upon granting the application shall register in a book or upon suitable index cards to be kept for the purpose, the vehicle described in the application, giving to its owner a distinguishing number or other mark, and shall thereupon issue a certificate of registration which shall contain the name, place of residence and address of the owner. The secretary of state shall also give to the applicant a certificate of title to the vehicle described in the application, which said certificate shall contain a statement of the owner's title including the name of the person, firm or corporation from whom the applicant purchased said motor vehicle or received title thereto, and of all liens and encumbrances upon the vehicle thereon described.'

Sec. 3. R. S., c. 29, additional. Chapter 29 of the revised statutes is hereby amended by adding thereto 4 new sections to be numbered 62-A, 62-B, 62-C and 62-D, and to read as follows:

'Sec. 62-A. License required for car dealers. No dealer shall engage in the business of selling cars set forth in the application therefor, until granted a license, and appropriate number plates issued therefor. On written application, in such form and detail as the secretary of state may provide, accompanied by a fee of \$5, the secretary may grant a license to conduct the business specified, which shall expire on the 31st day of December following the date of issue, unless sooner revoked. Such license may be annually renewed on payment of like fee. Before granting any license, the

secretary of state shall be satisfied that the applicant is a resident of this state, or authorized to do business herein, and that the applicant, and the agents thereof, are of good character and qualified to conduct the business requested in the application. The place, or places, to be occupied by the licensee for the purpose of carrying on the licensed business, shall be specified in the application and license. A supplemental license for change of location may be granted, without fee, at any time on written application.'

'Sec. 62-B. Evidence of retail sales. Every retail motor vehicle sale shall be evidenced by an instrument in writing, which shall contain such information, terms and conditions as the secretary of state may determine proper. A duplicate copy of such information shall be furnished by the seller and filed with the application of title or transfer of title. The secretary of state may determine the form of such statement.'

'Sec. 62-C. Causes for suspension or revocation of license. Any license may be suspended or revoked by the secretary of state, if it shall appear, after hearing, that the licensee or any agents or employees thereof, have committed any fraud, deception or concealment pertinent to the license, or violated any law governing the registration, purchase, sale, transfer or report of receipt, of any motor vehicle. All number plates issued to a licensee shall be surrendered as provided in section 108 of this chapter, upon suspension or revocation of any license granted under this act.'

'Sec. 62-D. Appeal. Any licensee aggrieved by the decision of the secretary of state in refusing, revoking or suspending a license, may, within 10 days thereafter, appeal from such decision to any justice of the superior court in the manner provided in section 46 of this chapter.'

Article IV

Penalties and Saving Clause.

Sec. 1. General penalty. Any person, firm or corporation who violates any provision of this act for which a specific penalty is not provided, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 2. Penalty for alteration and forgery of certificates. Any person who shall alter, forge or cause to be altered or forged, any certificate of title issued or purported to be issued pursuant to the provisions of this act or any assignment thereof, or shall hold or use any such certificate or assignment knowing the same to have been altered or forged, shall be punished by a fine of not more than \$1000 or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 3. Penalty for operating without certificate of title. Any person

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who shall knowingly operate or permit to be operated a motor vehicle in this state without securing a certificate of title as provided in this act, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment, and any person who sells a motor vehicle without complying with the requirements of section 2 of Article II hereof, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 4. Constitutionality. If any phrase, clause, sentence, paragraph or section of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other part of this act.

Approved April 19, 1939.

Chapter 240

AN ACT Defining and Prohibiting Unfair Sales Practices.

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

Sec. 1. Definitions. (a) The term "cost to the retailer" shall mean the invoice cost of the merchandise to the retailer within 30 days prior to the date of sale, or the replacement cost of the merchandise to the retailer within 30 days prior to the date of sale, in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added (1) freight charges not otherwise included in the cost of the merchandise, (2) cartage to the retail outlet if performed or paid for by the retailer, which cartage cost shall be deemed to be $\frac{3}{4}$ of 1% of the cost of the merchandise to the retailer, unless said retailer claims and proves a lower cartage cost, and (3) a mark-up to cover in part the cost of doing business, which mark-up in the absence of proof of a lesser cost, shall be 6% of the total cost at the retail outlet;

(b) The term "cost to the wholesaler" shall mean the invoice cost of the merchandise to the wholesaler within 30 days prior to the date of sale, or the replacement cost of the merchandise to the wholesaler within 30 days prior to the date of sale, in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added (1) freight charges not otherwise included in the cost of the merchandise, and (2) cartage to the retail outlet if performed or paid for by the wholesaler, which cartage cost shall be deemed to be $\frac{3}{4}$ of 1% of the cost of the merchandise to the wholesaler, unless said wholesaler claims and proves a lower cartage cost, and (3) a mark-up to