

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1999

Sec. 1. 7 MRSA §3153, sub-§2, ¶A, as amended by PL 1989, c. 436, §5, is further amended to read:

A. Effective June 1, 1984, each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment at the adjusted base minimum price that would be payable to its Maine market producers according to the blend price calculated using that dealer's utilization rate, and the amount of payment at the base minimum price that would be due its Maine market producers according to the blend price calculated using the applicable utilization rate for the New England Milk Marketing Order. Each Maine market dealer shall make an initial payment at the base minimum price to its Maine market producers according to the blend price calculated using the Federal Milk Order utilization rate or the Federal Milk Order Zone 1 blend price, whichever is greater, but shall comply in all other respects with chapter 603. Any additional payment at the adjusted base minimum price that would be due its Maine market producers pursuant to that dealer's applicable utilization rate ~~shall~~ **must** be made to the Maine Milk Pool. Based on the fact that northern Maine market producers presently operate at significantly higher costs because of their remoteness from markets and supplies, that they face greater risks because they operate on a closer margin and because their markets are less secure, payments to the Maine Milk Pool at the adjusted base minimum price attributable to northern Maine market producers ~~shall~~ **must** be reduced by 1/2 and those producers' initial payments under this section ~~shall~~ **must** be increased by the corresponding amounts. The commissioner shall adopt by rule such procedures as are necessary to implement this section.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect June 1, 1999.

Effective June 1, 1999.

CHAPTER 211

H.P. 1210 - L.D. 1739

An Act Relating to New and Used Car Document Fees

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

Sec. 1. 29-A MRSA §953-A is enacted to read:

§953-A. Document fees

A dealer selling a new or used motor vehicle shall post on the vehicle any document preparation fee that will be added to the vehicle's sale price. A violation of this section is prima facie evidence of an unfair trade practice and is a violation of Title 5, section 207.

See title page for effective date.

CHAPTER 212

H.P. 1405 - L.D. 2010

An Act to Amend the Maine Lemon Laws

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

Sec. 1. 10 MRSA §1161, sub-§4, as enacted by PL 1985, c. 220, §1, is amended to read:

4. Reasonable allowance for use. "Reasonable allowance for use" means ~~that amount obtained by multiplying the total purchase price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return~~ an amount that can not exceed the lesser of 1/3 of that amount allowed per mile by the United States Internal Revenue Service as provided by regulation, revenue procedure or revenue ruling promulgated under the United States Internal Revenue Code, Title 26, Section 162 for the use of a personal vehicle for business purposes or 10% of the purchase price of the vehicle.

Sec. 2. 10 MRSA §1163, sub-§2, ¶C, as enacted by PL 1985, c. 220, §3, is amended to read:

C. ~~Costs~~ Reasonable costs incurred by the consumer for towing and storage of the vehicle and for procuring alternative transportation while the vehicle ~~was out of service by reason of repair~~ could not be driven because it did not conform to any applicable express warranty.

Sec. 3. 10 MRSA §1168, sub-§3 is enacted to read:

3. Termination of lease and obligations. The lessee's lease agreement with the motor vehicle lessor and all contractual obligations terminate upon a decision that the vehicle does not conform to the vehicle's express warranty and the return of the vehicle to the lessor. The lessee may not be liable to the manufacturer or motor vehicle lessor for any further costs or charges under the lease agreement.

The motor vehicle lessor shall release the motor vehicle title to the manufacturer upon payment by the manufacturer under this chapter.

Sec. 4. 10 MRSA §1169, sub-§§1, 2 and 5, as enacted by PL 1989, c. 570, §5, are amended to read:

1. Neutral new car arbitration. All manufacturers shall submit to state-certified, new car arbitration if arbitration is requested by the consumer within 2 years from the date of original delivery to the consumer of a new motor vehicle ~~or during the first 18,000 miles of operation or within the term of the express warranties,~~ whichever comes first. State-certified arbitration ~~shall~~ **must** be performed by one or more neutral arbitrators selected by the Department of the Attorney General operating in accordance with the rules ~~promulgated~~ **adopted** pursuant to this chapter. The Attorney General may contract with an independent entity to provide arbitration or the Attorney General's office may appoint neutral arbitrators. Each party to an arbitration is entitled to one rejection of a proposed arbitrator.

2. Written findings. Each arbitration ~~shall result~~ **shall result** in a written finding of whether the motor vehicle in dispute meets the standards set forth by this chapter for vehicles that are required to be replaced or refunded. This finding ~~shall~~ **must** be issued within 45 days of receipt by the Department of the Attorney General of a properly completed written request by a consumer for state-certified arbitration under this section. All findings of fact issuing from a state-certified arbitration ~~shall~~ **must** be taken as admissible evidence of whether the standards set forth in this chapter for vehicles required to be refunded or replaced have been met in any subsequent action brought by either party ensuing from the matter considered in the arbitration. The finding reporting date may be extended by 5 days if the arbitrator seeks an independent evaluation of the motor vehicle. In addition to the other remedies provided by this chapter, the arbitrator may award a consumer whose motor vehicle is required to be replaced or refunded reasonable witness fees for a professional motor vehicle mechanic or engineer who prepared a notarized report on the condition of the vehicle or who testified at the arbitration hearing on behalf of the consumer.

5. Appeal of arbitration decision. ~~No~~ **An** appeal by a manufacturer or the consumer of the arbitrator's findings may ~~not~~ be heard unless the petition for appeal is filed with the Superior Court of the county in which the sale occurred, within 21 days of issuance of the finding of the state-certified arbitration. The appeal must be a trial de novo. The arbitrator and the Department of the Attorney General may not be parties in any such appeal and may not be

called as witnesses. The Department of the Attorney General may submit an amicus curiae brief.

In the event that any state-certified arbitration resulting in an award of a refund or replacement is upheld by the court, recovery by the consumer may include continuing damages up to the amount of \$25 per day for each day subsequent to the day the motor vehicle was returned to the manufacturer, pursuant to section 1163, that the vehicle was out of use as a direct result of any nonconformity not issuing from owner negligence, accident, vandalism or any attempt to repair or substantially modify the vehicle by a person other than the manufacturer, its agent or authorized dealer, provided that the manufacturer did not make a comparable vehicle available to the consumer free of charge.

In addition to any other recovery, any prevailing consumer ~~shall~~ **must** be awarded reasonable attorney's fees and costs. If the court finds that the manufacturer did not have any reasonable basis for its appeal or that the appeal was frivolous, the court shall double the amount of the total award to the consumer.

See title page for effective date.

CHAPTER 213

S.P. 443 - L.D. 1318

An Act to Amend the Treatment of Security Deposits Upon the Sale of a Building

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

Sec. 1. 14 MRSA §6035, sub-§1, as enacted by PL 1977, c. 359, is repealed and the following enacted in its place:

1. Landlord's termination of interests in dwelling unit. Upon termination of a landlord's interest in the dwelling unit, whether by sale, assignment, death, appointment of a receiver or otherwise, the person in possession of a security deposit, including, but not limited to, the landlord, the landlord's agent or the landlord's executor shall, upon the transfer of the interest in the dwelling unit:

A. Provide to the landlord's successor in interest an accounting of the amount of each security deposit paid by each tenant and held by the person in possession of the security deposits, transfer the funds or any remainder after lawful deduction under this chapter to the landlord's successor in interest and provide to the tenant by mail:

(1) Notice of that transfer;