

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

G. Hunts or sells for the purpose of hunting any animal ~~that is not covered by the provisions of, except as permitted pursuant to Title 7, chapter 202-A and~~ Title 12, Part 10; or

Sec. 12. 17 MRSA §1037, sub-§5, as enacted by PL 1997, c. 456, §19, is amended to read:

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in Title 7, section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in Title 7, section 1341, subsection 1.

Sec. 13. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Animal Health and Industry

All Other \$25,000

Allocates funds to provide for administrative costs and rulemaking costs from the newly established Animal Industry Fund.

See title page for effective date.

CHAPTER 766

S.P. 681 - L.D. 1931

An Act to Amend the Franchise Law

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the study commission established in this Act must report by November 1, 2000; and

Whereas, in order to complete its work and make its report in a timely fashion, the study commission must be convened as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §1174, sub-§3, ¶F-1 is enacted to read:

F-1. To vary or change the cost or the markup in any fashion or through any device whatsoever to any dealer for any motor vehicle of that line make based on:

(1) The purchase by any dealer of furniture or other fixtures from any particular source;
or

(2) The purchase by any dealer of computers or other technology from any particular source;

Sec. 2. 10 MRSA §1174, sub-§3, ¶I, as amended by PL 1997, c. 521, §12, is further amended to read:

I. To prevent or attempt to prevent by contract or otherwise a motor vehicle dealer or an officer, partner or stockholder of a motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties, except that a dealer, officer, partner or stockholder does not have the right to sell, transfer or assign the franchise or power of management or control under that franchise without the consent of the manufacturer, distributor or wholesaler, which may not be unreasonably withheld.

A franchisor may not exercise a right of first refusal or other right to acquire a motor vehicle franchise from a franchisee as a means to influence the consideration or other terms offered by a person in connection with the acquisition of the franchise or to influence a person to refrain from entering into, or to withdraw from, negotiations for the acquisition of the franchise.

A franchisor may exercise a right of first refusal or other right to acquire a franchise from a franchisee if all of the following requirements are met:

(1) At the election of the franchisee, the franchisor assumes the lease for or acquires the real property on which the franchise is conducted on the same terms as those on which the real property or lease was to be sold or transferred to the acquiring transferee in connection with the sale of the franchise, unless otherwise agreed to by the franchisee and the franchisor;

(2) The franchisor assumes all of the obligations of the underlying agreement or proposal that entitles the franchisor to exercise the right of first refusal; and

(3) The franchisor reimburses the acquiring transferee of the motor vehicle franchise for the reasonable expenses paid or incurred by the transferee in evaluating and investigating the franchise and negotiating and pursuing the acquisition of the franchise prior to the franchisor's exercise of the right of first refusal or other right to acquire the franchise. For purposes of this subsection, expenses to evaluate and investigate the franchise include, in addition to any other expenses associated with the evaluation and investigation of the franchise, legal and accounting expenses and expenses associated with the evaluation and investigation of any real property on which the franchise is conducted, including, but not limited to, expenses associated with title examinations, environmental assessments and other expenses directly related to the acquisition or lease of the real property by the acquiring transferee. Upon reimbursement, any title reports or other reports or studies received by the acquiring transferee as a result of the evaluation or investigation of the franchise or the real property on which the franchise is conducted must be provided to the franchisor. The acquiring transferee shall submit an itemized list of the expenses to be reimbursed along with supporting documents, if any, to the franchisor no later than 30 days after receipt of a written request for an itemized list of the expenses from the franchisor. The franchisor shall make payment within 30 days after the exercise of the right of first refusal;

~~For purposes of this paragraph, "acquiring transferee" means the person who made the offer that entitles the franchisor to exercise a right of first refusal;~~

For purposes of this paragraph, "acquiring transferee" means the person who made the offer that

entitles the franchisor to exercise a right of first refusal.

The right of first refusal does not apply in any right of succession established in section 1174-C unless the franchisor and either the franchisee, if the franchisee is not deceased or incapacitated, or, if the franchisee is deceased or incapacitated, the designated family member or other person authorized to succeed the franchisee pursuant to section 1174-C, subsection 1, paragraphs A to C agree to the exercise of a right of first refusal;

Sec. 3. 10 MRSA §1181, as enacted by PL 1975, c. 573, is amended to read:

§1181. Discounts and other inducements

In connection with a sale of a motor vehicle or vehicles to the State or to any political subdivision ~~thereof of the State, to a~~ manufacturer, distributor or wholesaler ~~shall~~ or corporate affiliate may not offer any discounts, refunds or any other similar type of inducement to any dealer without making the same offer or offers to all other of its dealers within the relevant market area, and if such inducements are made, the manufacturer, distributor or wholesaler shall give simultaneous notice ~~thereof of the inducements~~ to all of its dealers within the relevant market area.

Sec. 4. Study commission established. The Commission to Study the Most Effective Method of Providing Retail Rate Reimbursement for Parts and Labor, referred to in this section as the "commission," is established to study the most effective method of providing retail rate reimbursement under the Maine Revised Statutes, Title 10, section 1176 while protecting the interests of warranty and nonwarranty repair customers, the ability of franchisees to effectively receive reimbursement at retail rates and the interests of franchisors in relation to making such retail parts and labor reimbursement.

1. Membership. The commission consists of 7 members appointed as follows:

A. Two members of the Senate, appointed by the President of the Senate, one of whom must be a member of a political party that does not hold a majority of seats in that body;

B. Two members of the House of Representatives, appointed by the Speaker of the House, one of whom must be a member of a political party that does not hold a majority of seats in that body;

C. One motor vehicle dealer franchisee who is a member of the Maine Auto Dealers Association and is from a dealership within 50 miles of the

border of New Hampshire, appointed by the Speaker of the House;

D. One motor vehicle dealer franchisee who is a member of the Maine Auto Dealers Association appointed by the President of the Senate; and

E. One franchisor who is a member of the Alliance of Automobile Manufacturers, appointed by the Governor.

2. Appointments; chairs; convening. The appointments of members of the commission must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. The Senate member is the Senate chair and the House member is the House chair. Within 30 days after appointment of all members, the chairs of the commission shall call and convene the first meeting of the commission.

3. Duties. The commission shall study the Maine Revised Statutes, Title 10, section 1176 to determine the best manner in which to implement the retail reimbursement provisions for parts and labor for warranty work while protecting the interests of warranty and nonwarranty repair consumers, the interests of franchisees in receiving retail rate reimbursements and the question of cost recovery by franchisors.

4. Report. The commission shall submit a report of its findings and recommendations and accompanying legislation to the joint standing committee of the Legislature having jurisdiction over business and economic development matters no later than November 1, 2000. The joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out a bill based upon the report. If the commission requires a limited extension of time to make its report it may apply to the Legislative Council which may grant the extension.

5. Staff assistance. The commission may request staffing assistance from the Legislative Council.

6. Compensation. The legislative members are entitled to receive the legislative per diem and reimbursement for necessary expenses for their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the commission.

7. Commission budget. The chairs of the commission, with assistance from the commission staff, shall administer the commission budget. Within

10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council or the executive director's designee shall provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

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Commission to Study the Most Effective Method of Providing Retail Rate Reimbursement for Parts and Labor

Personal Services	\$880
All Other	1,300

Provides funds for the per diem and expenses of legislative members of the Commission to Study the Most Effective Method of Providing Retail Rate Reimbursement for Parts and Labor and to print the required report.

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TOTAL	\$2,180
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Emergency clause. In view of the emergency cited in the preamble, section 4 of this Act takes effect when approved.

Effective May 8, 2000, unless otherwise indicated.

CHAPTER 767

S.P. 775 - L.D. 2174

An Act to Protect the Citizens of Maine from the Dangers of Counterfeit Consumer Goods

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and