

MAINE STATE LEGISLATURE

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January 29, 2024

The Honorable Chip Curry, Senate Chair
Joint Standing Committee on Innovation, Development, Economic
Advancement and Business
100 State House Station
Augusta, ME 04333-0100

The Honorable Tiffany Roberts, House Chair
Joint Standing Committee on Innovation, Development, Economic
Advancement and Business
100 State House Station
Augusta, ME 04333-0100

Dear Senator Curry, Representative Roberts, and Members of the Committee,

L.D. 203, Resolve 2023, Chapter 19, Resolve, to Create a Working Group to Study Motor Vehicle Dealer Display Area Licensing Requirements, directs the Secretary of State, Bureau of Motor Vehicles to convene a working group to study issues related to laws and rules regulating motor vehicle dealer display areas and licensing requirements.

In addition to the members named in the resolve, additional subject matter experts such as representatives from the Office of the Attorney General, Maine State Police, and the Maine Auto Recyclers Association also participated in the working group discussions.

Working Group Process

The Bureau of Motor Vehicles (BMV) held three working group meetings. The efforts of the working group focused on analyzing Maine dealer regulations in two key areas:

1. Reviewing the effectiveness of current dealer laws and rules regulating dealer display areas; and
2. Examining existing dealer laws and rules to determine if new regulations could be adopted to better govern online dealer sales business models that would allow for newer business models to be licensed in Maine while preserving existing consumer protections and maintaining equity amongst existing licensed Maine dealers.

Display Area Discussion

The working group thoroughly discussed the existing regulatory framework as it relates to dealer display areas. The group reviewed the history of the current 5000-square-foot dealer display area requirement. It was revealed that the current size regulations were established to coincide with the Maine statutes that govern Sunday sales. None of the licensed dealers in the working group expressed any interest in making changes that would allow Sunday sales. The working group determined that a change to the display area size requirement would not impact the Sunday sales prohibition.

Research was conducted to determine if other jurisdictions had similar display area requirements. The group found that dealer display area size requirements vary greatly from jurisdiction to jurisdiction, with 5000 square feet being the most restrictive requirement.

Representatives from the new and used car dealer industries in the working group expressed that they did not have any issues with complying with the existing display area requirements. However, the representatives acknowledged they understood how smaller dealers could struggle with meeting the 5000-square-foot standard.

Mitchell Homes, a representative of Aroostook Auto Tech Inc., a licensed Maine Used Car Dealer, who provided testimony in support of L.D. 203 accepted an invitation to meet with the working group. Mr. Homes shared his challenges with meeting the current display area standard. Mr. Homes stated that his primary business is vehicle repair and that the customer vehicles for his repair business often encroach on his dealer display area, which impacts his ability to stay in compliance. Mr. Homes asserted that many other licensed Maine dealers with similar business models have similar challenges with preventing customer vehicles from being parked in the designated sales display area.

Display Area Findings

A consensus was reached that a reduction of the dealer display area requirement would be possible without impacting existing consumer protections. An amended display area standard was discussed. The dealers represented in the working group felt strongly that there should continue to be a single standard for display areas for all dealers. Concerns were raised that a display area requirement that was too small could result in the ability to display vehicles for sale in residential driveways and yards. The group agreed that a 3500-square-foot display area requirement seemed like a reasonable standard.

Research was conducted to determine the approximate number of vehicles that could be displayed in a 3500 square foot display area as compared to a 5000 square foot area. The research revealed that a 5000 square foot area (50' x 100') can hold two rows of eleven vehicles using a standard parking stall (18' x 9') and including a driveway space between the rows. Conversely, a 3500 square foot area (50' x 70') can hold two rows of eight vehicles using a standard parking stall (18' x 9') and including a driveway space between the rows.

The group raised no concerns related to the existing provisions that the designated display area be dedicated to vehicles that are ready for sale only. Additionally, the group did not want changes made to existing dealer rules governing the maintenance requirements for display areas.

Display Area Recommendation

The working group unanimously voted to recommend that the existing dealer display area regulations be amended to reduce the existing 5000 square foot requirements to 3500 square feet. This change will require a change to the definition of “Established Place of Business” in Title 29-A, section 851, subsection 4(C).

Online Dealer Sales Discussion

When considering the adoption of regulations related to online dealer sales, the working group placed a lot of emphasis on creating standards that would apply to emerging business models while maintaining consumer protections and equity amongst all licensed dealers. The group agreed that the Maine consumer would benefit from being able to purchase vehicles directly from a dealer via the internet. The group also agreed that dealers engaged in online dealer sales should be required to obtain a Maine dealer license when any part of that sale occurs in the State. To note, no other jurisdictions have enacted an online-only dealer license type.

Great progress was made in outlining possible approaches to regulating online dealer sales. Recommendations from the American Association of Motor Vehicle Administrators (AAMVA) regarding the regulation of motor vehicle sales made over the internet were reviewed. The group discussed what the physical location requirements, if any, would be for dealers conducting solely online sales as well as record retention and examination laws, title laws, and inspection laws. Additionally, the working group discussed what dealer plate and temporary dealer plate use would look like for online business models.

Online Dealer Sales Recommendation

When considering the scope of amending the current dealer regulatory framework to accommodate online dealer sales, the working group, felt that it was important to take the time to develop a framework that benefits both dealers and consumers. The working group concluded that while great progress was made toward the development of new regulations, more work still needs to be done. The group unanimously voted to recommend that the working group discussion on the regulation of online dealer sales continue with an expected deliverable to be presented to the 132nd Legislature.

The working group looks forward to working with you as you consider this report.

Sincerely,



Shenna Bellows
Secretary of State

Ch. 19, L.D. 203, “Resolve, to Create a Working Group to Study Motor Vehicle Dealer Display Area and Licensing Requirements”

SUGGESTED AMENDMENT

January 29, 2024

29-A MRSA §851, sub-§4(C), is amended to read:

§851. Definitions

4. Established place of business. "Established place of business" means a permanent, enclosed building:

- A. Located within the State;
- B. Easily accessible and open to the public at all reasonable times;
- C. With an improved display area of not less than ~~5,000~~ 3,500 square feet in or immediately adjoining it;
- D. In which the business of a dealer, including the display and repair of motor vehicles, may be lawfully carried on in accordance with building codes and zoning or land-use ordinances;
- E. In which the public may contact the dealer at all reasonable times;
- F. In which is kept and maintained the equipment, books, records and files necessary to conduct the business; and
- G. Displaying an exterior sign, permanently affixed to the land or building, that indicates the business name.