

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BUSINESS AND ECONOMIC DEVELOPMENT

JULY 1997

MEMBERS:

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Sen. Anne M. Rand

Sen. Bruce W. MacKinnon

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Staff:

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Maine State Legislature

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**ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees
August 1997**

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER*.....*Bill carried over to Second Regular Session*
- CON RES XXX*.....*Chapter # of Constitutional Resolution passed by both Houses*
- CONF CMTE UNABLE TO AGREE*.....*Committee of Conference unable to agree; bill died*
- DIED BETWEEN BODIES*.....*House & Senate disagree; bill died*
- DIED IN CONCURRENCE*.....*One body accepts ONTP report; the other indefinitely postpones the bill*
- DIED ON ADJOURNMENT*.....*Action incomplete when session ended; bill died*
- EMERGENCY*.....*Enacted law takes effect sooner than 90 days*
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*.....*Emergency bill failed to get 2/3 vote*
- FAILED ENACTMENT/FINAL PASSAGE*.....*Bill failed to get majority vote*
- FAILED MANDATE ENACTMENT*.....*Bill imposing local mandate failed to get 2/3 vote*
- INDEF PP*.....*Bill Indefinitely Postponed*
- ONTP*.....*Ought Not To Pass report accepted*
- OTP ND*.....*Committee report Ought To Pass In New Draft*
- OTP ND/NT*.....*Committee report Ought To Pass In New Draft/New Title*
- P&S XXX*.....*Chapter # of enacted Private & Special Law*
- PUBLIC XXX*.....*Chapter # of enacted Public Law*
- RESOLVE XXX*.....*Chapter # of finally passed Resolve*
- UNSIGNED*.....*Bill held by Governor*
- VETO SUSTAINED*.....*Legislature failed to override Governor's Veto*

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director

Offices Located in the State House, Rooms 101/107/135

2. A dealership may not be terminated without proper notice, as described under the Maine Revised Statutes, Title 10, chapter 214-A, good faith and good cause for termination.
3. A manufacturer may not coerce a dealer to accept recreational vehicles, parts or accessories that the dealer has not ordered.
4. Affected dealers may appeal and stop with "good cause" a manufacturer's decision to establish a new dealership in another dealer's relevant market area.

LD 1214

An Act to Provide a Warranty for Assistive Devices for Persons with Disabilities

PUBLIC 235

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FULLER	OTP-AM	H-290

LD 1214 proposed to provide a trial period and warranty for assistive devices for persons with disabilities. It would require that all assistive devices be sold subject to a 30-day trial, during which period a consumer may return the assistive device for a full refund if the assistive device had not been damaged, abused or altered by the consumer. The refund would have to be returned to the funding source if the device was purchased with insurance or public funds. The bill also proposed to require a manufacturer who sells or leases assistive devices to guarantee expressly that the assistive device is free from any condition or defect that substantially impairs its value. In the case of a sale, the warranty must be in effect at least one year after first delivery. A warranty must be in effect for the duration of a lease. The bill would require that a nonconformity reported during the warranty period be repaired at no charge to the consumer and that a comparable assistive device be loaned if the repair requires more than three days. If a reasonable attempt to repair the assistive device had been made without success, the manufacturer must accept return of the assistive device and either refund the purchase price or replace the assistive device. LD 1214 would further require that a manufacturer of an assistive device that is returned provide a clear written disclosure and description of the nonconformity to any subsequent purchaser. The bill would allow a consumer to bring an action to recover for damages caused by a violation and to collect twice the amount of a pecuniary loss, plus reasonable costs and attorney's fees. Under this bill, any waiver of rights by a consumer would be void.

Committee Amendment "A" (H-290) proposed to clarify that a warranty for an assistive device must be in effect as long as the device is used within manufacturer specifications. This amendment proposed to exempt hearing aids from the definition of assistive device as hearing aids are currently regulated by the Board of Hearing Aid Dealers and Fitters. The 30-day trial period would be amended to apply to situations in which the assistive device is not specifically fit for the consumer's particular needs. Language would be added to protect the dealer of assistive devices in situations when, upon the sale of the device, the dealer had no reasonable way of knowing the consumer would use the device as an assistive device. Additional word changes were made to clarify the intent of the bill.

Enacted law summary

Public Law 1997, chapter 235 provides a trial period and warranty for assistive devices for persons with disabilities. It requires that all assistive devices be sold subject to a 30-day trial, during which period a consumer may return the assistive device for a full refund if the assistive device has not been damaged, abused or altered by the consumer. The 30-day trial period applies to situations in which the assistive device is not specifically fit for the consumer's particular needs. A warranty for an assistive device must be in effect as long as the device is used

within manufacturer specifications. The refund must be returned to the funding source if the device was purchased with insurance or public funds. Hearing aids are exempt from the definition of assistive device as hearing aids are currently regulated by the Board of Hearing Aid Dealers and Fitters.

Public Law 1997, chapter 235 also requires a manufacturer who sells or leases assistive devices to guarantee expressly that the assistive device is free from any condition or defect that substantially impairs its value. In the case of a sale, the warranty must be in effect at least one year after first delivery. A warranty must be in effect for the duration of a lease. Chapter 235 requires that a nonconformity reported during the warranty period be repaired at no charge to the consumer and that a comparable assistive device be loaned if the repair requires more than three days. If a reasonable attempt to repair the assistive device has been made without success, the manufacturer must accept return of the assistive device and either refund the purchase price or replace the assistive device.

Chapter 235 further requires that a manufacturer of an assistive device that is returned provide a clear written disclosure and description of the nonconformity to any subsequent purchaser. It allows a consumer to bring an action to recover for damages caused by a violation of the chapter and to collect twice the amount of a pecuniary loss, plus reasonable costs and attorney's fees. Any waiver of rights by a consumer is void under this chapter. A dealer of assistive devices is protected if the dealer had no reasonable way of knowing the consumer was to use the device as an assistive device.

LD 1251 **An Act to Preserve Consumer Privacy** **ONTP**

<u>Sponsor(s)</u> VEDRAL		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1251 proposed to prohibit businesses from maintaining or transferring information about the purchases or habits of any individual without receiving written permission from the individual. The bill would allow the Attorney General to bring actions against violators on behalf of consumers to enjoin future violations or to recover damages. The bill would further authorize the court to impose treble damages for willful and knowing violations. Aggrieved individuals would be given a private right of action to recover damages and any other relief the court considers necessary and proper.

LD 1258 **An Act Regarding People Giving Canadian Money as Change in Business Transactions** **ONTP**

<u>Sponsor(s)</u> GOODWIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1258 proposed to limit the dispensing of Canadian currency as change to instances when a payment has first been made in Canadian currency as part of a financial or business transaction.