

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON LABOR, COMMERCE,
RESEARCH AND ECONOMIC DEVELOPMENT**

May 2014

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION
LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

The *Digest* is arranged within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER.....carried over to a subsequent session of the Legislature
CON RES XXX chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSESHouse & Senate disagreed; legislation died
DIED IN CONCURRENCE defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT action incomplete when session ended; legislation died
EMERGENCYenacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE.....emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT.....legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW.....sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY.....ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX chapter # of enacted public Law
RESOLVE XXX chapter # of finally passed resolve
VETO SUSTAINED.....Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the Second Regular Session of the 126th Legislature is August 1, 2014. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Labor, Commerce, Research and Economic Development

It enacts the Maine Small Business Investment Protection Act to protect franchisees in the sale and operation of franchise businesses.

Committee Amendment "A" (H-669)

This amendment is the majority report of the committee and replaces the bill with a resolve to establish the Commission To Study Business Format Franchising. It requires the commission to study the following: the frequency of transfers of franchises in this State from a franchisee to a member of the franchisee's family, including but not limited to, cases in which the franchisee dies or becomes incapacitated; legal issues raised with state franchise laws that require contract disputes to be subject to the jurisdiction of state courts; the cancellation, termination and renewal terms of franchise agreements; the impact of the imposition of the obligation to act in good faith on parties to a franchise agreement; and the impact of the imposition of the requirement of reasonableness on terms and provisions of a franchise agreement. It requires the commission to submit a report by November 5, 2014 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters.

Committee Amendment "B" (H-670)

This amendment is the minority report of the committee and it replaces the bill. It does the following.

1. It enacts the Maine Small Business Investment Protection Acts, establishes that violations of the Act are subject to the jurisdiction of the courts of this State and exempts from the provisions of the Act franchisors and franchisees that are subject to other statutory franchise relationship laws in the Maine Revised Statutes, Title 10, chapter 204, 204-B, 206-B, 208-B, 211-A or 214-A.
2. It establishes a standard of reasonableness and good faith for all agreements entered into under the Maine Small Business Investment Protection Act.
3. It provides standards regarding cancellation, termination and nonrenewal of a franchise to require good cause, prior notice and the opportunity to cure.
4. It includes protections for a franchisee's right to transfer or assign an interest in a franchise.
5. It provides for survivorship rights for a designated family member of a deceased or incapacitated franchisee.
6. It contains a public policy section that states that a contract or part of a contract or activity undertaken pursuant to a contract in violation of the Maine Small Business Investment Protection Act is against public policy and is void and unenforceable.
7. It adds an application section.

LD 1482 An Act To Amend the Motor Vehicle Franchise Laws

PUBLIC 534

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAIN FREDETTE	OTP-AM ONTP	S-439

This bill was carried over from the First Regular Session of the 126th Legislature.

The bill amends the motor vehicle dealer franchise laws. It defines "essential tool" as a tool specific to a manufacturer that is instrumental to the diagnosis or repair of a manufacturer's express warranty claim on a new motor vehicle. It amends the laws related to a manufacturer's requirement to provide a fair supply and mix of vehicles. It clarifies that when a manufacturer requires a dealer to purchase a special or essential tool a

Joint Standing Committee on Labor, Commerce, Research and Economic Development

manufacturer may charge only its actual cost for such a tool. It establishes standards protecting dealership data from unauthorized use. It clarifies the right of a dealer to see the dealer's file regarding compliance with the franchise agreement. It also amends the warranty law to clarify that if a dealer performs warranty service and the work is done in a professional manner and the repair is otherwise completed to the benefit of the consumer, if the manufacturer objects to a technical requirement associated with the warranty submission process or to a specific aspect of the repair, those elements of the warranty claim that are not objectionable must be paid.

Committee Amendment "A" (S-439)

This amendment is the majority report of the committee. It makes the following changes to the bill.

1. It changes the definition of "essential tool" to specify that an essential tool is one that is required by a motor vehicle manufacturer.
2. It changes the provisions governing the requirement that a motor vehicle manufacturer provide a fair and adequate supply and mix of vehicles to a dealer to provide that a failure by a manufacturer to do so that results in an effort to terminate a new motor vehicle dealer for, in whole or in part, poor sales performance or market penetration may be evidence that the termination was not for good cause.
3. It changes the provisions governing recovery of actual costs by the manufacturer from the dealer for special or essential tools to provide that the manufacturer may recover costs only if the tool is directly available only from the manufacturer or its wholly owned subsidiary.
4. It clarifies the provisions governing prohibited conduct by a manufacturer relating to alterations or renovations to a dealership's premises or facilities and provides that the provisions do not supersede certain other laws, including state health and safety laws or local zoning laws.
5. It expands the definition of "dealer management computer system vendor."
6. In the section relating to standards protecting dealership data from unauthorized use, it strikes the provision regarding fees and adds language to include 3rd parties in the provision prohibiting access to dealer and customer data.
7. It changes the provisions regarding exceptions to the limitations on the access or use of customer or prospect information maintained in a dealer management computer system to provide that the limitations do not apply to a customer that moves more than 60 miles away from the dealer whose data were accessed.
8. It removes the provision relating to the retroactive application of contracts in the section governing security breaches.
9. It replaces the language governing a franchisor's responsibility to pay elements of a warranty claim to provide that the franchisor is prohibited from denying those elements of a warranty claim that are based on a dealer's incidental failure to comply with a claim requirement, as long as the dealer corrects any related clerical error or other technicality according to licensee guidelines.
10. It adds a provision to amend current law to reduce from 18 to 12 the number of months a manufacturer may audit a new motor vehicle dealer to determine the validity of customer or dealer incentive payments.

Enacted Law Summary

Public Law 2013 amends the motor vehicle franchise laws as follows.

1. It changes the definition of "essential tool" to specify that an essential tool is one that is required by a motor vehicle manufacturer.

Joint Standing Committee on Labor, Commerce, Research and Economic Development

2. It changes the provisions governing the requirement that a motor vehicle manufacturer provide a fair and adequate supply and mix of vehicles to a dealer to provide that a failure by a manufacturer to do so that results in an effort to terminate a new motor vehicle dealer for, in whole or in part, poor sales performance or market penetration may be evidence that the termination was not for good cause.
3. It changes the provisions governing recovery of actual costs by the manufacturer from the dealer for special or essential tools to provide that the manufacturer may recover costs only if the tool is directly available only from the manufacturer or its wholly owned subsidiary.
4. It clarifies the provisions governing prohibited conduct by a manufacturer relating to alterations or renovations to a dealership's premises or facilities and provides that the provisions do not supersede certain other laws, including state health and safety laws or local zoning laws.
5. It expands the definition of "dealer management computer system vendor."
6. In the section relating to standards protecting dealership data from unauthorized use, it strikes the provision regarding fees and adds language to include 3rd parties in the provision prohibiting access to dealer and customer data.
7. It changes the provisions regarding exceptions to the limitations on the access or use of customer or prospect information maintained in a dealer management computer system to provide that the limitations do not apply to a customer that moves more than 60 miles away from the dealer whose data were accessed.
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10. It adds a provision to amend current law to reduce from 18 to 12 the number of months a manufacturer may audit a new motor vehicle dealer to determine the validity of customer or dealer incentive payments.

LD 1565 Resolve, Directing the Department of Economic and Community Development To Report on the Use of Funds Appropriated To Support the Code Enforcement Officer Training and Certification Program

**Died On
Adjournment**

Sponsor(s)
CAREY

Committee Report
OTP-AM

Amendments Adopted
H-641

This bill was carried over from the First Regular Session of the 126th Legislature.

The bill reassigns the responsibilities for code enforcement officer training and certification from the Department of Economic and Community Development, Office of Community Development to the Department of Environmental Protection, Bureau of Land Quality Control. Current law partially funds the position from the Maine Code Enforcement Training and Certification Fund, which receives fees and surcharges imposed for the examination of plans for construction, reconstruction or repairs, plumbing inspections and training and certification of municipal building officials and code enforcement officers. Current law also provides that if insufficient funds are available to support the training and certification program, the program is discontinued. This bill removes that provision.