

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

STATE OF MAINE  
128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

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

August 2017

**MEMBERS:**

SEN. AMY F. VOLK, CHAIR  
SEN. BRIAN D. LANGLEY  
SEN. SHEENA LEE BELLOWS

REP. RYAN M. FECTEAU, CHAIR  
REP. ANNE-MARIE MASTRACCIO  
REP. DILLON F. BATES  
REP. JAMES R. HANDY  
REP. DONNA R. DOORE \*  
REP. MICHELLE DUNPHY\*  
REP. MICHAEL A. SYLVESTER  
REP. SUSAN M. W. AUSTIN  
REP. LAWRENCE E. LOCKMAN  
REP. JOEL R. STETKIS  
REP. KAREN R. VACHON

**STAFF:**

HENRY FOUTS, LEGISLATIVE ANALYST  
JANET STOCCO, LEGISLATIVE ANALYST  
OFFICE OF POLICY AND LEGAL ANALYSIS  
13 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1670  
<http://legislature.maine.gov/legis/opla/>

\*Committee member for a portion of the session

# STATE OF MAINE

128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 128<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and 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. An appendix provides a summary of relevant session statistics.

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 HOUSES*..... House & 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  
*EMERGENCY*..... enacted 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 First Regular Session of the 128<sup>th</sup> Legislature is Wednesday, November 1, 2017. 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*

Service and clarifies the requirements for a practitioner trainee to receive credit toward licensure through the Maine Apprenticeship Program.

3. It repeals the provisions for licensure of companies by the Plumbers' Examining Board; clarifies that a trainee plumber licensed by the board may work under the direct supervision of more than one licensed journeyman or master plumber and may be employed by either a master plumber or an entity that also employs at least one licensed master plumber; creates an exemption from plumbing licensure for pump installers who are licensed by the Department of Health and Human Services, Maine Water Well Commission; clarifies that the board may discipline licensees for violation of rules adopted by the board and a municipality may penalize licensees who violate municipal ordinances; eliminates the requirement that an individual apply for a trainee license within ten business days of commencing work as a trainee plumber; and allows candidates for plumbing licensing examinations to retake the examination without paying a reexamination fee and to take the examination more than once time per year, regardless of the score received on the examination.

4. It repeals a transition provision added to the laws governing licensure of social workers in 1987, which is no longer relevant.

5. In the laws governing the Real Estate Commission, it authorizes the commission to deny or refuse to renew a license if the applicant had a professional or occupational license suspended or revoked for disciplinary reasons at any time in the past, not just in the past three years as in current law; it requires the designated broker of a brokerage agency to notify the commission when a licensee leaves the agency, but eliminates the requirement that the designated broker to return the license to the commission; clarifies that a designated broker may delegate functions only to an individual affiliated with the agency; authorizes nonresidents to apply for licensure if they hold licenses in any other jurisdiction, not just in their places of legal residence; and removes references to the obsolete term "branch office manager."

6. It removes provisions that require individuals to submit a photograph with an application for licensure as a transient seller as well as the dates of birth and social security numbers of their employees.

7. It makes technical corrections to the laws governing licensure of boiler and pressure vessel operators, including by repealing a reference to an examination committee that no longer exists.

8. It requires that secondary and post-secondary oil burner and solid fuel technician courses be approved by the Maine Fuel Board; allows propane and natural gas technicians to obtain more than one type of specialty authority; requires all applicants for propane and natural gas technician licenses to pass an examination approved by the board; and removes the term "limited" from certain license categories including energy auditors, tank installers and wood pellet technicians.

9. It restores language that was inadvertently omitted from a comprehensive revision of the laws governing dental practice enacted in the Second Regular Session of the 127th Legislature authorizing the Board of Dental Practice to file a complaint in District Court for suspension or revocation of a license.

**LD 1463**

**An Act To Amend the Laws Relating to Motor Vehicle Dealers**

**PUBLIC 217**

Sponsor(s)

VOLK A  
HERBIG E

Committee Report

OTP-AM

Amendments Adopted

S-267

This bill clarifies the standard of review in disputes between motor vehicle dealers and manufacturers regarding succession of motor vehicle dealerships and prohibits franchisors from denying dealer's incentive payment claims due to clerical errors or other technicalities, provided that the dealer corrects the clerical error or technicality. This

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

bill also makes the following actions by motor vehicle manufacturers or distributors unfair trade practices:

1. Using unreasonable performance standards, including by failing to consider local market factors, in assessing dealer compliance with franchise agreements; the manufacturer bears the burden to show its performance standards are reasonable by clear and convincing evidence;
2. Prohibiting dealers from selling new motor vehicles subject to a do not sell or drive directive or other manufacturer notice unless a remedy and parts are available to fix the problem; the manufacturer must compensate the dealer at least 1.7% of the dealer invoice price per month for each affected vehicle if the parts required to remediate the vehicle are not available within 15 days of the order;
3. Prohibiting dealers from selling used motor vehicles subject a do not sell or drive directive or other manufacturer notice unless a remedy and parts are available to fix the problem; the manufacturer must compensate the dealer at least 2.5 % of the vehicle's retail value per month for each affected vehicle if the parts required to remediate the vehicle are not available within 15 days of the order;
4. Using sales performance statistics against dealers during the time and 90 days thereafter in which used motor vehicles are subject to a recall, stop sale or do not drive directive if there is no remedy or the remedy exists but the parts are unavailable; dealers may also apply to manufacturers for an adjustment to sales performance standards during a similar period of time affecting new motor vehicles;
5. Preventing a dealer from providing manufacturer-created information to consumers related to conditions that might affect a vehicle's safety, durability, reliability or performance; and
6. Reducing payments to dealers for dealer-performed warranty repairs or required recall repairs, even if the dealer discovered the need for the repairs during the course of a separate repair request by the consumer or directly through a recall notice from the federal government.

### **Committee Amendment "A" (S-267)**

This amendment retains the provisions of the bill that clarify the standard of review in succession planning for motor vehicle dealers and that prevent a manufacturer from denying claims due to clerical errors or technicalities. The amendment also makes it an unfair and deceptive trade practice for a motor vehicle manufacturer:

1. To use unreasonable performance standards in assessing motor vehicle dealer compliance with franchise agreements;
2. To fail to compensate a motor vehicle dealer for all of the reconditioning expenses and for all labor and costs associated with performing a recall repair on a new or used vehicle;
3. To fail to compensate dealers at a rate of 1.5% of the average vehicle trade-in value per month when a used motor vehicle in the dealer's inventory is subject to a do not drive order or a stop sale order based on a safety defect or violation of an emissions standard and no remedy exists or the parts are unavailable to remedy the defect or violation within 30 days;
4. To compete with a motor vehicle dealer by opening a dealership of any line make in the State without first obtaining a determination from the Maine Motor Vehicle Franchise Board that there is no dealer within the relevant market area available to own and operate a dealership of that line make; and
5. To deny a claim for a warranty repair or a recall repair on a vehicle when the need for the repair was discovered by the dealer during the course of a separate repair requested by the customer.

The amendment also enacts a provision that mirrors federal law by requiring a manufacturer to compensate a dealer

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

when a new motor vehicle in the dealer's inventory is subject to a do not drive order or a stop sale order based on a safety defect and there is a delay before the necessary remedy and parts are made available to the dealer to repair the vehicle.

**Enacted Law Summary**

Public Law 2017, chapter 217 clarifies the standard of review in disputes between motor vehicle dealers and manufacturers regarding succession of motor vehicle dealerships and prohibits franchisors from denying dealer's incentive payment claims due to clerical errors or other technicalities, provided that the dealer corrects the clerical error or technicality. Public Law 2017, chapter 2017 also makes it an unfair and deceptive trade practice for a motor vehicle manufacturer:

1. To use unreasonable performance standards in assessing motor vehicle dealer compliance with franchise agreements;
2. To fail to compensate a motor vehicle dealer for all of the reconditioning expenses and for all labor and costs associated with performing a recall repair on a new or used vehicle;
3. To fail to compensate dealers at a rate of 1.5% of the average vehicle trade-in value per month when a used motor vehicle in the dealer's inventory is subject to a do not drive order or a stop sale order based on a safety defect or violation of an emissions standard and no remedy exists or the parts are unavailable to remedy the defect or violation within 30 days;
4. To compete with a motor vehicle dealer by opening a dealership of any line make in the State without first obtaining a determination from the Maine Motor Vehicle Franchise Board that there is no dealer within the relevant market area available to own and operate a dealership of that line make; and
5. To deny a claim for a warranty repair or a recall repair on a vehicle when the need for the repair was discovered by the dealer during the course of a separate repair requested by the customer.

Public Law 2017, chapter 217 also enacts a provision that mirrors federal law by requiring a manufacturer to compensate a dealer when a new motor vehicle in the dealer's inventory is subject to a do not drive order or a stop sale order based on a safety defect and there is a delay before the necessary remedy and parts are made available to the dealer to repair the vehicle.

**LD 1464      *An Act Regarding Unemployment Compensation for Full-time Seasonal Workers*      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK A WARD K	ONTP	

This bill allows an unemployed individual to receive unemployment benefits without registering for work, seeking employment or receiving required training if the individual has a verifiable guarantee to return to employment from the individual's most recent employer and the individual is available for recall and is receiving full-time yearly benefits but is not receiving vacation pay. An individual receiving unemployment benefits pursuant to this new exemption would lose benefits if the individual either refuses a recall to work from the employer or seeks employment from another employer.