

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Maine Citizens and Franchised New Car and Truck Dealers**

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

**Whereas,** the State has regulated the terms of franchise agreements between franchised new motor vehicle dealers and their manufacturers for decades; and

**Whereas,** the manufacture, distribution and sale of motor vehicles in this State and the ability of franchised new motor vehicle dealers to provide for the distribution, sale and repair of vehicles vitally affect the general economy of the State, the transportation system and the public interest and public welfare; and

**Whereas,** recent economic circumstances have created a crisis in the automobile industry; and

**Whereas,** manufacturers are attempting to use these economic circumstances to circumvent the laws of the State; and

**Whereas,** manufacturer efforts to circumvent the laws of the State will result in the loss of franchise rights and protections currently provided to Maine motor vehicle dealers under state law; and

**Whereas,** the circumvention of these laws will be to the detriment of Maine consumers, citizens and municipalities and towns; and

**Whereas,** Maine's franchise laws now balance the rights and obligations of motor vehicle dealers and manufacturers and the interests of the State and its citizens in a fair and reasonable manner; and

**Whereas,** the solvency and economic vitality of Maine motor vehicle dealerships are jeopardized by current economic conditions and the decision making of manufacturers; and

**Whereas,** new motor vehicle dealerships provide thousands of high-paying jobs in the State; and

**Whereas,** revenues crucial to the operation of state and local government, including property, excise and income taxes, in excess of 20% of all sales taxes, are collected as a result of the sale of motor vehicles; and

**Whereas,** it is crucial that Maine's motor vehicle dealership network around the State remain intact to provide for the distribution, sale and repair of motor vehicles in all areas of the State; 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 §1171, sub-§16** is enacted to read:

**16. Successor manufacturer; predecessor manufacturer.** "Successor manufacturer" means any manufacturer that succeeds, or assumes any part of the business of, another manufacturer, referred to as the "predecessor manufacturer," as the result of:

- A. A change in ownership, operation or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise;
- B. The termination, suspension or cessation of a part or all of the business operations of the predecessor manufacturer;
- C. The noncontinuation of the sale of the product line; or
- D. A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether.

**Sec. 2. 10 MRSA §1174, sub-§3-A** is enacted to read:

**3-A. Successor manufacturer.** Successor manufacturer, for a period of 5 years from the date of acquisition of control by that successor manufacturer, to offer a franchise to any person for a line make of a predecessor manufacturer in any franchise market area in which the predecessor manufacturer previously cancelled, terminated, noncontinued, failed to renew or otherwise ended a franchise agreement with a franchisee who had a franchise facility in that franchise market area without first offering the franchise to the former franchisee at no cost, unless:

- A. Within 30 days of the former franchisee's cancellation, termination, noncontinuance or nonrenewal, the predecessor manufacturer had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing franchise facility in that franchise market area;
- B. The successor manufacturer has paid the former franchisee the fair market value of the former franchisee's motor vehicle dealership in accordance with this subsection; or
- C. The successor manufacturer proves that the former franchisee is not competent to be a franchisee.

For purposes of this subsection, "franchise market area" means the area located within 15 miles of the territorial limits of the municipality in which the former franchisee's franchise facility was located.

For purposes of this subsection, the fair market value of a former franchisee's motor vehicle dealership must be calculated as of the date of the following that yields the highest fair market value: the date the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal; the date the action that resulted in cancellation, termination, noncontinuance or nonrenewal became final; or the date 12 months prior to the date that the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 17, 2009.