

125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 316

S.P. 96

In Senate, February 8, 2011

An Act To Clarify the Scope of Maine's Franchise Laws for Dealers of Power Equipment, Machinery and Appliances

(EMERGENCY)

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR. Secretary of the Senate

Presented by Senator BARTLETT of Cumberland. Cosponsored by Representative DRISCOLL of Westbrook.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- 3 **Whereas,** there is uncertainty regarding the extraterritorial effect of Maine's 4 franchise laws for dealers of power equipment, machinery and appliances and whether 5 these laws apply to out-of-state dealerships; and
- 6 **Whereas,** such uncertainty has the potential to immediately and substantially disrupt 7 the ability of Maine manufacturers, distributors and franchisors to maintain dealerships in 8 other states and cause such manufacturers and distributors to relocate out of Maine, which 9 could cost Maine jobs; and
- 10 **Whereas,** in the judgment of the Legislature, these facts create an emergency within 11 the meaning of the Constitution of Maine and require the following legislation as 12 immediately necessary for the preservation of the public peace, health and safety; now, 13 therefore,
- 14 Be it enacted by the People of the State of Maine as follows:
- 15 Sec. 1. 10 MRSA §1361, sub-§1, as enacted by PL 1993, c. 195, §1, is amended
 16 to read:
- 17 **1. Dealer.** "Dealer" means a person <u>located within this State</u> who sells goods or 18 solicits or advertises the sale of goods to the public. "Dealer" does not include receivers, 19 trustees, administrators, executors, guardians or other persons appointed by or acting 20 under judgment, decree or order of any court nor does it include public officers 21 performing their duties as officers.
- Sec. 2. 10 MRSA §1361, sub-§4, as enacted by PL 1993, c. 195, §1, is amended
 to read:
- 4. Franchisee. "Franchisee" means a person, dealer or distributor of goods <u>located</u>
 within this State to whom a franchise is offered or granted.
- Sec. 3. Intent; application. It is the intent of the Legislature that the amendments
 set forth in this Act are a clarification of existing law, not a change in the law.
 Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to all
 actions and proceedings pending on the effective date of this Act.
- 30 Emergency clause. In view of the emergency cited in the preamble, this
 31 legislation takes effect when approved.
- 32 SUMMARY
- Consistent with the principle that Maine law does not have an extraterritorial effect, this bill confirms that Maine's franchise laws regarding dealers of power equipment, machinery and appliances apply to dealerships located within this State and are not intended to cover dealerships located outside the State.