

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

June 10, 1932

To Captain Joseph F. Young, State Highway Police
Re: Responsibility of Owner or Operator

You inquire whether the owner of a motor vehicle is answerable in court as well as the operator under R. S. Chapter 29, section 80, as amended by P. L. 1931, Chapter 111, in case of defective brakes.

A flat answer, Yes, or No, cannot be given. Circumstances vary the result.

It is the general principle of criminal law that criminal responsibility must be clearly indicated by the statute. Section 119 of Chapter 29 provides a penalty for "whoever violates or fails to comply with the provisions of any section of this chapter," but Section 80 does not impose specifically on the owner the duty of providing adequate brakes, but says that the vehicle "shall be provided" with the brakes.

Merely showing that the car does not have adequate brakes would be insufficient to hold either the owner or the operator. A showing that the operator knowingly operated the car with defective brakes might apparently justify his conviction under this section. For an owner knowingly to furnish a motor vehicle with inadequate brakes to be operated by someone else might justify his conviction. In either case, however, there has to be deduced an item which is not stated in the statute: viz, - that it is the operation of the car or the furnishing of the car for operation which makes the crime. It seems to me that section 80 is inadequately worded for any very effective criminal prosecution. I should not recommend a prosecution unless the circumstances indicated recklessness in driving the car. For a person to operate a car whose brakes he knows are defective might well be reckless driving, especially where section 80 expressly requires adequate brakes. This would enable you to reach the operator, but would not extend to the owner. In short, I doubt the effectiveness of this section as a ground for criminal prosecution against the owner of a car as distinguished from the operator.

Clement F. Robinson
Attorney General