

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

or State Departments. I cannot, therefore, give you an official opinion on this matter and must leave it to your private attorneys.

Unofficially, I can say that "war time", so-called, does not exist in Maine. That expression is a very happy one suggested by the President to assist those States whose Legislatures were not in session at the time when Congress passed the new standard time act. Such States had to go through the bunglesome process of adopting a daylight saving time rule by Executive Order, the result being one of very dubious legality. In Maine our Legislature happened to be in session and picked up the Federal act and adopted a new standard time law for Maine so that standard time in Maine is the same as standard time set by act of Congress.

There is no restriction in our law on any individual, group or municipality, or on the State itself, setting clocks in any fashion desired. Eastern standard time is the official time and courts have to function on that time. Contracts operate in accordance with that time unless there is something expressly stated to the contrary in the contract itself.

If any or all the people of Old Orchard Beach or any other municipalities in the State want to set their clocks at any time different from Eastern standard time, they are at perfect liberty to do so. They can set their clocks ahead an hour or set them back an hour and adopt any other system of time they see fit. The one thing they can't do is change legal time which is the Eastern standard time set by Congress and adopted as such by our Legislature.

Very truly yours,

FRANK I. COWAN  
Attorney General

From:  
Frank I. Cowan, Attorney General

April 27, 1942

To:  
Department of Insurance

You have requested from this office an opinion as to the endorsement which should be prescribed by your department under the provisions of the financial responsibility law of Maine as amended in 1941. Section 91 contains the definitions which control the subsequent sections of the statute wherein the filing of proof of financial responsibility is required.

Subsection VI of Section 91 defines "certificate". An insurance company authorized to transact the business specified in Chapter 60 of the Revised Statutes may issue a certificate that it has issued a motor vehicle liability policy covering the particular motor vehicle trailer or semi-trailer involved in an accident.

Subsection VII defines "motor vehicle liability policy". This is a policy of liability insurance providing indemnity for the operation of

the insured's motor vehicle trailer or semi-trailer when operated by himself or by others with his expressed or implied consent. Section 96 refers to the form of the policy and provisions required therein. In Section 96a it is stated that the policy must contain the name, address and business of the insured and a description of the motor vehicles and trailers or semi-trailers covered. The policy which is to contain these facts is in the same section referred to as the motor vehicle liability policy defined in Section 91. Subsection d of Section 96 refers to the motor vehicle liability policy as defined in Section 91. Subsection a of Section 97 is in reference to the amount of proof required when it becomes necessary for evidence of financial responsibility to be filed.

I understand that you wish to be informed specifically as to whether any of the provisions of the statute under consideration require a motor vehicle liability policy which provides for "drive other car coverage" or "named operator coverage", when proof is required of an owner of a motor vehicle involved in an accident. It has been suggested that a part of subsection a of Section 97 indicates that a named operator policy or drive other car coverage policy might be required since reference is made to "use of a motor vehicle". This phrase in itself is insufficient to support a ruling that would require broad form coverage under the statute. The particular phrasing must be read in connection with the context of the section as well as the context of the act itself. The same section provides that whenever required, proof shall be furnished for each motor vehicle, trailer or semi-trailer registered by such person.

It would appear to be the intention of the Legislature in using this phrasing to safeguard, insofar as such phrase will provide a safeguard, the Secretary of State in other provisions of the act wherein the Secretary of State, if dissatisfied with the proof required of an owner of a vehicle, may pursue the operator of the vehicle even though he may not be an owner. So far as the substance of the section itself is concerned it appears that its purpose looks to the amount of proof to be required and that it could not be intended as a substantive extension of the coverage requirements more specifically set out in other sections of the statute.

We are informed that the so-called "bureau companies" have prepared a so-called standard provisions policy for automobile liability. Incorporated in such standard policy is a provision whereby such insurance as is afforded by this policy complies with the provisions of the motor vehicle financial responsibility law with respect to any liability arising out of the ownership or maintenance of the automobile covered by the policy to the extent of the coverage and limits of liability required by such law. We understand that during the month of June last the then insurance commissioner issued his instructions to the effect that a policy to become "a motor vehicle liability policy" as defined in the law should contain an endorsement to that effect.

It is the opinion of this office that an endorsement meeting the requirements of the act will comply with the statute when such endorsement is incorporated in the policy either by way of incorporation in the body of the policy or by attachment thereto as a rider.

It is my opinion that the following provision

“Such insurance as is afforded by this policy for bodily injury liability or property damage liability shall comply with the provisions of the motor vehicle financial responsibility law of any state or province which shall be applicable with respect to any such liability arising out of the ownership, maintenance or use of the automobile during the policy period, to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph”

constitutes an effective endorsement to convert a standard provisions motor liability policy into a “motor vehicle liability policy” when certificate thereof is filed with the Secretary of State. While I am definitely of this opinion I should like to point out that the final clause of the first sentence of this endorsement “but in no event in excess of the limits of liability stated in this policy” is open to litigation in that it is conceivable though not probable, that the clause could be interpreted to mean the substantive coverage of the policy rather than the financial limitations of the policy. I am not of the opinion that this particular possibility warrants a requirement at the present time which would preclude litigation on this point but I would strongly urge that if there is any evidence of abuse of this provision by insurance companies doing business in this State either by way of litigation or by way of attempts to “whittle down verdicts” on the threat of an appeal to the law court involving this point the endorsement requirements should then be modified.

I would suggest that the Insurance Department make a recommendation to the insurance companies that the clause in the contract referred to in the previous paragraphs be clarified at the next revision of the standard form insurance policy.

Attorney General

From:  
Frank I. Cowan, Attorney General

April 28, 1942

To:  
Honorable Sumner Sewall  
Governor of Maine

The question has been asked by some sheriffs and police officers as to whether enforcement of the Executive Orders under the Civilian Defense Act is confined to such persons as are designated by the