

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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It is my opinion that Section 99 of Chapter 19 confers such authority upon the State Highway Commission and upon the appropriate highway officials. The last part of said section reads as follows:

“. . . the intent of this chapter being to confer upon the state highway commission, and upon the appropriate highway officials, broad regulative authority to encourage reasonable use of the ways and bridges and to correct abuse thereof; such delegated authority being necessary in the opinion of the legislature for the reasonable use and proper protection and continued maintenance of the ways and bridges of this state.”

It is my opinion that the language of this statute gives the Commission authority to restrict parking along the highways or on the approaches to bridges, where the parking of cars has become a nuisance and a hazard to the free movement of traffic.

RALPH W. FARRIS
Attorney General

October 8, 1945

To John C. Burnham, Administrative Assistant, SHC

Your memo of October 4th received, asking my opinion whether under the Personnel Board Rule 11, Part 2, a state employee, receiving injury by accident arising out of and in the course of his employment, would be entitled to benefits under the provisions of the Workmen's Compensation Act and the balance of his weekly wages as sick leave pay up to the number of days of sick leave due him.

My opinion is that the employee receiving the benefits under the provisions of the Workmen's Compensation Act is not entitled to the balance of his weekly wages as sick leave, as sick leave and accidents should be distinguished in the payment of benefits under the Workmen's Compensation Act.

RALPH W. FARRIS
Attorney General

October 17, 1945

To Miss Esther Lipton, Director of Special Education for Physically Handicapped Children

Re: Examinations of Physically Handicapped Children

I have your memo of October 17th propounding four questions:

1. Is the diagnosis of an M. D. considered legal in the State of Maine?

Answer. Yes.

2. Is the diagnosis of an Osteopath considered legal in the State of Maine?

Answer. The diagnosis of an osteopath would be legal for certain physical conditions which said osteopath has been trained to treat.

3. Is the diagnosis of a Chiropractor considered legal in the State of Maine?

Answer. Yes, for certain ailments which said chiropractor is authorized to treat.

4. May the Division of Special Education for Physically Handicapped Children require the diagnosis of a specialist—an Orthopedist, a Heart Specialist, Ophthalmologist, Otologist, Neurologist, Psychiatrist, and others—as an aid in determining the eligibility of an applicant for the special services of this Department?

Answer. Section 180-B of Chapter 149, P. L. 1945, provides as follows: "There is hereby created in the state department of education a division of special education to foster, inspect, approve and supervise a program of education for physically handicapped children as defined in sections 180-A to 180-I, inclusive."

This gives the Department of Education a Division of Special Education with the power to make rules and regulations in supervising and carrying out this program for the education of physically handicapped children. It is for your department to say whom you will have to examine these children in order to determine whether or not they are physically handicapped. It is my opinion that you can require a specialist in each one of the branches named in your question 4.

RALPH W. FARRIS
Attorney General

October 17, 1945

To Earl Hutchinson, Director of Secondary Education

Re: Secondary School Tuition by a Maine Town to a New Hampshire Town

I have your memo of October 16th requesting an interpretation of the statute relating to school pupils attending schools in another State, namely Section 99, Chapter 37, R. S. 1944, as amended by Chapter 270, P. L. 1945.

Section 99 of Chapter 37 provides in part as follows:

"Provided further, that any town not maintaining a high school may pay tuition for any student who with parents or guardian resides in said town and who attends an approved school. . . in a town adjacent to the state of Maine in another state, when distance and transportation facilities make attendance in a Maine high school or academy inexpedient. . ."

This provision of Section 99 was enlarged upon by Chapter 270 of the Public Laws of 1945, in that it added the following provisions:

"Any youth who resides with a parent or guardian in a town that maintains, or contracts for school privileges in, an approved second-