

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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December 27, 1945

To J. J. Allen, Controller

I return herewith the documents attached to your memo of Nov. 21, 1945, inquiring with regard to the propriety of reimbursement by the State Highway Commission to the Town of Moscow for overdraft on State Aid construction during a previous year. In this particular case the overdraft was in 1941. I took the question up with the Highway Commission and was informed that the expenditure here concerned was made with the consent of the Commission in anticipation of this money's becoming available. See Chapter 20, §109. The State Aid was afterwards withheld because of the enactment at a special session of the legislature of Chapter 105 of the Laws of 1941, effective January 24, 1942. It is not quite clear to me that the State Highway Commission, notwithstanding this legislation, could not have paid the State Aid in the specific cases where they had authorized the towns to go ahead with the work; but anyway there is money now available and the State Highway Commission has approved the payment of this invoice, and I am of the opinion that it may properly be audited and paid now.

ABRAHAM BREITBARD
Deputy Attorney General

December 27, 1945

To David H. Stevens, State Assessor

Please be advised that no person, unless he is engaged in the business of *selling* cigarettes, either at wholesale or at retail, is required to be licensed under the cigarette tax law.

Thus, any group of persons who are members of or connected with or affiliated with any charitable or social organization and who want to distribute cigarettes to sick and disabled veterans at Togus or at any other institution, need not be licensed to do so, as they are not engaged in the selling of cigarettes, which is essential before they can be required to comply with the licensing law of this act.

ABRAHAM BREITBARD
Deputy Attorney General

January 16, 1946

To Hon. Harold I. Goss, Secretary of State

Re: Reciprocity to Non-Resident Vehicles and Operators

This department acknowledges receipt of your memorandum of January 11th asking for an opinion "on the question of whether a corporation organized in Maine operating motor vehicles in interstate traffic, these vehicles being registered in another state, are entitled to the benefits of the Maine reciprocity law in reference to the vehicles so operated."

This question has particular reference "to corporations engaged in interstate transportation by motor truck."

Chapter 342 of the Laws of 1945 provides for reciprocity and exempts from the provisions of Chapter 19 of the Revised Statutes, the registration of motor vehicles, tractors and trailers owned by a non-resident, provided that the owner of such vehicle has complied with the provisions of the law of the state, district or country of his residence relative to the registration of such vehicle. Like provision is made as to a non-resident operator who has been licensed in accordance with the provisions of law of the state, district or country of his residence.

These provisions apply only to the state, district or country that extends and grants like privileges to motor vehicles owned by residents of this state, who have registered the same in accordance with the laws of this state.

Section 3 of this law defines the term "non-resident" as "any person whose legal residence is in some state, district or country other than Maine . . ."

The residence of a corporation is in the state of its creation, although it may carry on business in another state; and in all states other than the state of its creation it is deemed to be a non-resident. The definition of the term "non-resident" as it appears in this law makes it clear that the law is applicable only to persons whose legal residence is in a state, district or country other than Maine. It cannot apply to a domestic corporation, as its "legal residence" is the State of Maine.

I therefore advise you that domestic corporations must register their motor vehicles in this state, and cannot have the advantage of this law by registering their motor vehicles in a foreign state.

ABRAHAM BREITBARD
Deputy Attorney General

January 16, 1946

To Harry H. Gilson, Commissioner of Education

I have your memo of January 8th stating questions raised by Teachers Retirement Board relating to application of amendment by the last legislature found in Chapter 321 of the Public Laws of 1945, which admits to membership teachers serving certain academies, etc.

"1. Can this amendment be interpreted to mean that all teachers, coming under the provisions of this amendment, may be entitled to retro-active membership if they request it and pay up for back service; or does this law limit such membership to the effective date of the act, July 21, 1945?"

Answer. In my opinion this amendment limits such membership to the effective date of the act.