

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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Furthermore, the only money that the Turnpike Authority will have for administrative purposes will be from the sale of bonds, and said bonds are not to be deemed a debt of the State of Maine or a pledge of the faith and credit of the State of Maine, and the State of Maine is not obligated to pay the bonds or any interest thereon except from tolls, and the issuance of these Turnpike bonds does not directly or indirectly obligate the State to any form of taxation whatever or to make any appropriation for the payment thereof.

It is my opinion therefore that it was not the intention of the legislature that the Turnpike Authority employees should come within the purview of the Employees' Retirement System Act.

RALPH W. FARRIS
Attorney General

March 7, 1946

To Laurence C. Upton, Chief, Maine State Police

I have your memo of March 6th in regard to the question relating to the penalty for violation of Chapter 306 of the Public Laws of 1945. The penalty under that section is as follows:

"Whoever is required to make a report as herein provided and fails to do so, or wilfully fails to give correct information. . . shall be deemed answerable to the secretary of state, and the secretary . . . may suspend or revoke the operator's license of such person or the certificate of registration, or both. . ."

That is the penalty for violation of Chapter 306. You will note the word "wilfully" is used in the language of this penalty, and of course it is a very severe penalty for the operator or owner of a motor vehicle to have his license and registration certificate revoked. I call your attention to this fact because it indicates that the legislature intended it to be a penalty for the violation of this chapter.

If you will look at Section 136 of Chapter 19, R. S. 1944, which provides the general penalty for violation of the motor vehicle laws where there is no other penalty provided, you will find that it reads as follows:

"Whoever violates or fails to comply with the provisions of any section of this chapter or any rules or regulations established thereunder, *when no other penalty is specifically provided*, shall be punished by a fine of not more than 90 days, or by both such fine and imprisonment."

You state that at least one court has taken the position that a person who fails to report an accident to the Chief of the State Police, as required by the terms of this statute, cannot be prosecuted in the criminal court, and undoubtedly the judge of this court had in mind that, where a specific penalty is provided, the violator of the provisions of Chapter 306, P. L. 1945, would not come within the provisions of Section 135 of Chapter 19, R. S. 1944, which contains the wording, "when no other penalty is

specifically provided," and I must rule that the revoking of the operator's license and certificate of registration is the penalty, and a person failing to report an accident would not be prosecuted under Section 135 of Chapter 19, R. S. 1944.

RALPH W. FARRIS
Attorney General

March 12, 1946

To Lester E. Brown, Chief Warden, Inland Fisheries and Game

I have your inquiry of March 7th to which is attached a letter inquiring about the legality of a device to attract fish, which the manufacturer calls a decoy device.

Section 51 of our Fish and Game Laws prohibits "advance baiting," and provides punishment for "whoever deposits any meat, bones, dead fish or parts of the same, or other food for fish in any of the inland waters of the state, for the purpose of luring fish." It is the deposit of food that is prohibited. The device which is the subject of the inquiry is not a deposit of food. It involves the submersion of a glass jar with a perforated cover with live minnows in the jar, which would attract the fish to the jar or in the immediate vicinity thereof. I do not believe that the use thereof would, strictly speaking, be a violation of our act.

However, before we give anyone any advice with regard to the sale of some article, we should consider whether the same violates the spirit of our law and whether it is opposed to good sportsmanship. If it does violate these principles, we should refuse to give them any advice which would encourage them to put the same on the market, as we may want the legislature coming in thereafter to prohibit its use.

ABRAHAM BREITBARD
Deputy Attorney General

March 26, 1946

To Stanton S. Weed, Director, Division of Motor Vehicles

Re: Registration Fees of Motor Vehicles Hired for Operation by the Lessee

Your inquiry of February 26th relates to the registration fees for vehicles which are owned by a so-called truck-leasing corporation and which are hired out to persons desiring to use the same in connection with their own business. It is stated that the lessee under the renting agreement agrees not to carry passengers for hire. Under Section 15 of Chapter 19, Subdivision B., it is provided that motor vehicles "used for livery or hire, (pay) double the above fees." The fees enumerated in Subsection A. are the fees for passenger cars, based on the horsepower of the vehicle.