

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

February 17, 1947

To H. A. Ladd, Commissioner of Education

Your memo of February 7th received, requesting my opinion as to whether an attendance officer resident in Town A can be legally elected to serve in Town B of which he is not a resident.

It is my opinion that an attendance officer must be a resident of the town in which he is elected to serve. The language of the statute reads:

“The superintending school committee of every city and town shall annually elect one or more persons to be designated attendance officers, etc.”

This, with the following language in the same statute,

“Attendance officers, when so directed in writing by the superintendent of schools or the superintending school committee of their respective towns. . .”

would imply that they should be residents of the town where they are to be elected and to serve.

RALPH W. FARRIS
Attorney General

February 18, 1947

To S. S. Weed, Director, Motor Vehicle Division

I have your memo of February 17th, citing the last sentence of the first paragraph of Section 19, Chapter 19, R. S. 1944, which section relates to the registration of manufacturers of or dealers in new or used trucks, tractors or trailers, and you cite said sentence as follows:

“No motor truck, tractor, or trailer registered under the provisions of this section shall be used for other than demonstration, service, or emergency purposes.”

You ask for an interpretation as to the intent of this sentence, and in reply I will say that in my opinion these registration plates should not be used permanently on motor trucks, tractors or trailers, but should be used only on such trucks, tractors and trailers as are held for sale by the dealer.

RALPH W. FARRIS
Attorney General

February 21, 1947

To E. W. Campbell, Chief Clerk, Barbers and Hairdressers

I have your memo of February 19th, quoting the third paragraph of Section 209, Chapter 22, R. S. 1944, in regard to a license to operate a shop where barbering or hairdressing and beauty culture are practiced. The fee for same is \$5 in the first instance and \$3 for each yearly renewal thereof.

You state that two ladies formed a partnership and secured a license to operate a beauty parlor as a partnership. Now the partnership has been

dissolved. The license was issued to the partnership in January, 1947, and would expire normally on June 30, 1947, and you ask the following questions:

“(1) Does the license as issued become void by the dissolving of the partnership?”

Answer. When a partnership is dissolved, the law contemplates the entire cessation of business as such, and the firm subsists only for the purpose of winding up its business. Therefore upon the dissolution of the partnership the license becomes void.

“(2) If the license does not become void by the dissolving of the partnership, and in the event that both partners wish to continue to operate beauty parlors, one at the old location and one at another location, may either of these secure credit for the unexpired portion of the partnership license, or must both individuals secure new licenses for the shops which they will operate individually and pay the regular fee of \$5.00 for their initial individual shop licenses?”

Answer. These licenses are not transferable; and in view of the fact that the dissolution of the partnership which had the license terminates the rights of these two persons forming the partnership from doing business as such, if they go into business as individuals, each must secure a license for her own shop and pay the regular fee of \$5; and there is no provision in the statute for a refund, when a firm or corporation takes out a license and the said firm or corporation is dissolved, to any person formerly a member of such firm or corporation.

RALPH W. FARRIS
Attorney General

February 21, 1947

To Daniel T. Malloy, Chief Warden, Sea and Shore Fisheries
Re: Section 116, Chapter 34, R. S. 1944

I have your memo of February 18th, stating that Section 116 of Chapter 34 has been interpreted by your Department to mean that no person can lawfully fish for lobsters in Maine waters without a lobster fishing license and that the exception therein, which you cite as follows,

“. . . except for immediate consumption by himself and family,” refers to possession of lobsters by an individual for his own use, one who does not hold a license to engage in any phase of the lobster industry. You ask me to inform you if your interpretation of this provision is correct.

In answer I call your attention to the language of the exception:

“No person, firm, or corporation, either by themselves as principal or by their servants or agents, shall, at any time, catch, take, hold, buy, ship, transport, carry, give away, remove, sell, or expose for sale, or have in his or its possession, except for immediate consumption by himself and family, any lobster; . . . unless licensed to do so as hereinafter provided. . .”