

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

In future, before these accounts are submitted to my office for approval for charging off, they should be certified to by the Commissioner of Finance and the State Auditor, and recommended by the head of the department or institution. . .

RALPH W. FARRIS
Attorney General

May 9, 1947

To N. S. Kupelian, M. D., Superintendent, Pownal State School

I have your letter of April 29th, relating to one of your inmates who has been out on trial visit for some time . . . has been self-supporting and has not got into any trouble in the community, and you are considering his dismissal upon eugenic sterilization. You also state that the law requires the signature of the nearest relative and your records show that his mother is feeble-minded and her whereabouts are known. You are therefore wondering if under these conditions it would be legal to have his brother sign the consent in place of the mother.

It is true that the law provides that in case the patient is mentally incapable of giving his consent, the consent of the nearest relative or guardian must be secured. However, if the nearest relative is incompetent and feeble-minded and incapable of understanding the significance of the consent, I will rule in this case that the consent of the nearest relative who is competent must be secured, and it will be sufficient for the purposes of this case to have the brother sign the sterilization papers with a note on the consent that the brother who signs the consent is the next nearest relative mentally capable of giving consent.

RALPH W. FARRIS
Attorney General

May 21, 1947

To Marion Martin, Commissioner of Labor
Re: Hours of Labor for Women

In your letter of May 7th you ask to be advised concerning the hours of labor a female may be employed under § 22 of Chapter 25, R. S. 1944. Your question is: "Would it not be possible for an employer to employ a female 10 hours, 5 days a week in order to reduce the work day of the 6th day so that day is entirely eliminated?"

The section of the statute, so far as pertinent, is as follows:

"No female shall be employed in any workshop, factory, manufacturing or mechanical establishment more than 9 hours in any one day; except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for 1 day of the week; and in no case shall the hours of labor exceed 10 hours in any one day or 54 hours in any one week; . . ."

I think that the adoption by the employer of a 50-hour week spread over 5 days of 10 hours each would be within the letter and spirit of this statute, and I so advise you.

You have directed my attention to a ruling made in 1929 by the then Attorney General, which would appear on superficial examination to be in conflict with this ruling. I do not so regard it, since the statute has since been changed. In 1943, by Chapter 285, § 1, the apportionment provisions were amended by limiting the hours to 10 in any one day, where an apportionment is made by the employer. Previous to that, there was no limitation except as to the 54-hour week, and attempts were made by some employers to have 12-hour days and more, and then reduce the number of working days per week. This, the Attorney General held, was not permissible, and I agree with him.

I am of the opinion that the amendment limiting the hours to 10 where an apportionment is made would permit the 5-day week, where the 50-hour week is used.

ABRAHAM BREITBARD
Deputy Attorney General

May 21, 1947

To David H. Stevens, State Assessor
Re: Cigarette Tax

I received your memo of May 12th, relating to the provisions of Chapter 377 of the Public Laws of 1947, which provides for an increase of 2c per packet on cigarettes and a 20% tax on cigars and tobacco products, which new law will go into effect on July 1, 1947. You state in your memo that, due to the fact that the payment of this tax is made evident by affixing a stamp to the tobacco product and also due to the fact that your inspection for tax purposes of tobacco products will be completely fruitless if you do not attempt to collect a tax on those tobacco products in the hands of the retailers on July 1st, it would seem desirable to arrange for the retailers to purchase and affix stamps to cover their inventories on July 1st. You further comment that it would also seem that Section 190 of Chapter 14, R. S. 1944, as amended, would indicate that cigarettes and tobacco products held in this State by any person for sale should bear the correct tobacco tax stamps, if sold after July 1, 1947.

It seems to me that this is a matter of purely administrative procedure. In my opinion it would be entirely legal to arrange for retailers to cover their inventories on July 1st. According to the statute, cigarettes and tobacco products held in this State for sale after July 1, 1947, should bear the correct tobacco tax stamps.

RALPH W. FARRIS
Attorney General

May 21, 1947

To David H. Stevens, State Assessor
Re: Gasoline Tax

I have your memo of May 12th relating to the provisions of Chapter 349, P. L. 1947, which provides for an increase of 2c per gallon in the State tax on gasoline.