

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

This law becomes effective on June 1, 1947. The gasoline tax law provides for the first distributor receiving the gasoline in the State to be responsible for the tax, except as to the case of shipment by tank car or barge.

You request this office to advise you whether you are charged with the responsibility, under the new law, of attempting to recover the 2c on the gasoline held in the hands of distributors who purchased from other distributors, and of retailers, on June 1, 1947, or in other words upon that gasoline on which the 4c tax has already been paid.

In reply I will say that where the gas tax has already been paid by the first distributor, as provided by law, under the provisions of the old law, it is my opinion that you cannot collect an additional 2c tax when the new law becomes effective, as there is no such retro-active provision, relating to inventories, in the act.

RALPH W. FARRIS

Attorney General

May 23, 1947

To A. K. Gardner, Commissioner of Agriculture

Re: Salvage Derived from Condemned Reactors to Tuberculosis

Your memo of May 21st, relating to the above matter, which you have discussed with Mr. Buzzell and Mr. Mudge, received. You refer to Section 7 of Chapter 297. I presume you are referring to the Public Laws of 1945, which amended Section 69 of Chapter 27 of the Revised Statutes by changing the wording of that statute so that the money received from the sale of hides and carcasses of condemned animals shall be credited to the General Fund.

I note what you say in your memo in regard to the salvage, that when the salvage exceeds \$50, the owner of the condemned cattle must be reimbursed and that the condemned cattle are usually killed at slaughter houses in Maine and shipped to Boston for inspection; and that the Division of Animal Industry receives the salvage value, less the expense incidental to the slaughter. You ask:

"Is it possible for the slaughterer to pay the Division of Animal Industry for deposit to the General Fund the appraised value up to \$50 and to pay to the owner of the condemned animal any amount in excess of \$50 when so appraised?"

It is my opinion that this cannot be done, as there is no authority under the statute.

I do not see why you could not issue a voucher to the owner for the balance above the appraised value. This is another case of delay and hardship caused by the amendment of Chapter 297, P. L. 1945, which was intended to simplify the financial structure of the State, but has hampered the administration of the departments that are functioning on a fee basis, and is very unfair to the several departments involved, that is, in crediting the fees to the General Fund and taking payments out of an appropriation for the department in which the legislature has made no provisions therefor.

In case the Controller's office will not accept your vouchers for payment to the owner of condemned cattle for the salvage value beyond the \$50 limit, I would go to the Governor and Council and ask that money be taken from the Contingent Fund to pay this excess to the owners.

RALPH W. FARRIS

Attorney General