

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

July 1, 1947

To A. K. Gardner, Commissioner of Agriculture

Re: Authority for making regulations allowing Maine Sardine Packers to pack sardines for export, that do not conform to the Maine Food and Drug Law and the Federal Food and Drug Act.

I received your memo of June 30th. After citing the provisions of law relating to the Federal Food and Drug Act and the Maine Food and Drug Law, and part of Section 201 of Chapter 27, R. S. 1944, relating to the inspection and packing of sardines, which gives the Commissioner discretion in making uniform rules and regulations for carrying out the provisions of the sardine packing law and to fix standards of quality where such standards are not fixed by law, you ask this question:

“Is it within the authority of the Commissioner of Agriculture to make rules and regulations that will allow packing sardines for export that are not in accord with the standards of quality established in Section 168, paragraph F of Chapter 27, R. S. 1944, and Section 201 of the same Chapter.”

Paragraph F of Section 168 reads as follows:

“If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.”

Section 201 of Chapter 27 I have just quoted from your memo, relating to the fixing of standards of quality by the Commissioner.

Before answering your question I will say that I do not see any standard of quality established in Section 168. It is for you as Commissioner to say whether the sardines consist in whole or in part of a filthy, decomposed or putrid substance or are the product of a diseased animal, and I understand that you do this by having inspectors at the sardine factories when the sardines are being packed. In my opinion you have a right to fix the standard of quality of the sardines that are being packed at the various plants in Maine. There is nothing in our State law in regard to export of sardines, while the federal law permits the shipment of sardines without any federal inspection for export only. It seems to me that it is a matter of discretion with you whether or not you want to follow the federal statute in this regard.

RALPH W. FARRIS
Attorney General

July 1, 1947

To L. C. Fortier, Chairman, Maine Unemployment Compensation Commission

Re: Eligibility for Unemployment Compensation under Chapter 340, P. L. 1947

Chapter 340, P. L. 1947, approved May 6, 1947, becomes effective on August 13, 1947. By virtue of this amendment, the minimum qualifying

wage for eligibility to unemployment compensation is raised from \$200 to \$300. You have inquired as to the Commission's duty with respect to claimants whose wages for insured work during the base period were in excess of \$200 and less than \$300, and whose eligibility for unemployment compensation was determined between April 1, 1947 and August 13, 1947.

In order to ascertain the intent of the legislature in enacting Chapter 340, P. L. 1947, it is necessary to study all of the pertinent sections of the statute, of which the amendment becomes a part; that is to say, all of the sections of the unemployment compensation law. This study has been made, and I have arrived at the conclusion that claimants whose potential eligibility has been determined in accordance with subsection (b) of section 6 of the unemployment compensation law within the benefit year and prior to August 13, 1947, should continue to be paid unemployment compensation at the potential rate determined, and within the maximum amount available under such determination so long as they remain continuously unemployed and continue to report weekly, in accordance with the provisions of subsection (b) of section 4 of the unemployment compensation law. Should the unemployment status of any of such individuals be interrupted by employment or by failure to continuously report, in accordance with subsection (b) of section 4, such persons who, subsequent to August 13, 1947, again report and file an additional claim or claims for unemployment compensation, should have their potential eligibility redetermined under the provisions of Chapter 340, P. L. 1947.

All claimants filing on or after August 13, 1947, should have their eligibility for unemployment compensation potentially determined in accordance with the revised schedule contained in Chapter 340, P. L. 1947.

RALPH W. FARRIS
Attorney General

July 2, 1947

To Earle R. Hayes, Secretary, Employees' Retirement System
Re: Expense Allowance to Highway Engineers Assigned to Field Duty

I have your memo of July 1st, stating that the Board of Trustees have asked you to secure a ruling from me on the following question:

"They are advised that a certain stated amount of money is paid by the Highway Commission to its engineers in addition to their weekly salary at such times as they are away in the field working on assignments, on the theory that it is a partial reimbursement for expenses. The Board of Trustees believe that this amount of money should be considered as maintenance rather than expenses, for purposes of retirement deductions. Do you agree with this position?"

I have checked with the system in vogue in the State Highway Department relating to paying additional sums to Highway engineers, and I find that this is not a continuous practice but is done only in cases where an engineer is assigned to a particular job in a particular field for a short period. It is not a regular wage proposition, but lasts only so long as he is assigned to that position. Engineers do not receive additional sums while on duty in