

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

The claim advanced by him is that he began teaching outside the State prior to 1924 and hence, when he began teaching in this State in 1925, he was entitled to the benefits under the non-contributory teachers' pension provisions now contained in Chapter 37, Sections 212-220, as amended, notwithstanding the fact that in September of 1933 he made written application to the Maine Teachers' Retirement Association to become a member of that system and since that time has made the statutory contributions. His alleged claim to a refund of the contributions made by him is based on the fact that he had "no opportunity to make a choice or to ascertain my (his) status;" but since that time a period of fourteen years has elapsed and he has taken no action whatever to correct his status and comes too late at this time, particularly when the motivating fact must be that the legislature at this last session has passed a retirement act which, it is claimed, provides for more favorable benefits, to teachers who can qualify for non-contributory pensions.

Section 241 of Chapter 38, dealing with the Teachers' Retirement System, provides:

"Any teacher in service previous to July 1, 1924 may elect between the provisions of sections 221 to 241, inclusive, and the provisions of sections 212 to 219, inclusive, but shall not in any case be eligible to benefits under both."

Having exercised an election to accept the benefits of the Teachers' Retirement System, he cannot at this time have the benefits of the non-contributory pension statutes. Having made choice, he is bound by that choice. Furthermore, there is no provision in the act which authorizes anyone to refund the contributions made by any member except in accordance with the terms of the act. The only instance where provision is made for withdrawing the contributions with interest is where the member withdraws from the service by resignation or dismissal, or in case of death of such member before he becomes eligible for retirement. I therefore advise you that the refund of the contributions made under the facts above stated cannot be made.

ABRAHAM BREITBARD
Deputy Attorney General

Augusta 19, 1947

To Bureau of Taxation

I desire to amplify my memo of June 18, 1947, relative to the propriety of a service station selling gasoline from a tank under a trade name or symbol of its own, notwithstanding that the gasoline dispensed is that of a well-known refiner or manufacturer which advertises its product under the name and symbol adopted by it.

The question then before me was whether a retail seller who conducted a filling station could adopt a name of his own, using that name and symbol on the tank and selling gasoline that he purchased directly from a manufacturer or distributor. I advised that he could not do so under Section 168 of Chapter 88 of the Revised Statutes of 1944.

I am informed by the attorney for a distributor that this ruling has been interpreted by your bureau as applicable to a distributor, in this particular case, who purchases gasoline from various refiners and sells it under a name adopted by him at stations conducted by him and likewise at retail outlets conducted by others who in their tanks use the name and symbol adopted by the distributor.

The action of a distributor in adopting a name of his own for the gas that he sells, and its use either by himself at his service stations or by retail stations purchasing gasoline from him are clearly authorized by Section 169. Hence I want to make clear that my first ruling was not applicable to one who qualifies as a distributor under that section and adopts a symbol or trade name of the product distributed by him.

ABRAHAM BREITBARD
Deputy Attorney General

August 21, 1947

To E. W. Campbell, Director, Division of Sanitary Engineering
Re: Chapter 330, Public Laws of 1947, AN ACT Relating to the Manufacture and Sale of Bedding and Upholstered Furniture

This department acknowledges receipt of your memo of July 15, 1947, in which you ask whether you have correctly interpreted the various sections dealing with permits, tagging, and the attachment of an adhesive stamp to be prepared and issued by your department.

You are hereby advised as follows:

1) After September 1, 1947, a permit is required to qualify those persons who engage in sterilizing or disinfecting secondhand materials intended to be used in the process of making and remaking or renovating any article of bedding or upholstered furniture; and subsequent to September 1, 1947, no person can manufacture for sale, sell, lease, offer to sell or lease or deliver on consignment any article of bedding or upholstered furniture in which any secondhand material has been used, unless the same has been approved by your department in accordance with the regulations of the department.

2) After September 1st, each article containing new material covered by Sections 147-151C, inclusive, must bear a substantial white cloth tag "upon which shall be indelibly stamped or printed, in English, a statement showing the kind of materials used in filling such article, with approximate percentages when mixed, and with the word 'new' clearly printed thereon."

3) After September 1st, each article covered by the same sections, containing secondhand material or a portion thereof shall bear a substantial yellow cloth tag upon which shall be indelibly stamped or printed, in English, a statement showing the kind of materials used in filling such articles, with approximate percentages when mixed, and shall state 'Sterilized and Disinfected.'

4) The affixing of the adhesive stamp required by Section 151 in addition to the white and yellow tags will not be required until after July 31, 1949.

ABRAHAM BREITBARD
Deputy Attorney General