

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

deed if the business or occupation of keeping a hotel conducted through the use of a single building should be subjected to regulation while the same business or occupation conducted through the use of a group of buildings, such as a tourist camp, should be exempt from regulation. A tourist camp is none the less a hotel because the business or occupation is conducted through the use of a group of buildings rather than through the use of one."

I am therefore of the opinion that the above provisions of the statute quoted would be applicable to a sporting camp or a tourist camp.

ABRAHAM BREITBARD  
Deputy Attorney General

September 1, 1947

To Harland A. Ladd, Commissioner of Education  
Re: Legal Debt Limit of a Town

I have your memo of September 2d, stating that a question has arisen concerning the debt limit of towns. You state that in some instances there is considerable difference between the valuation of a town as determined by its local assessors and as determined by the State Tax Assessor, and you inquire: "Is the legal debt limit of a town (.05 of its valuation) based on local valuation or on State valuation?"

*Answer.* Article XXXIV, Amendments to the Constitution of Maine, provides:

"No city or town having less than forty thousand inhabitants, according to the last census taken by the United States, shall hereafter create any debt or liability, which single or in the aggregate, with previous debts or liabilities shall exceed five per centum of the last regular valuation of said city or town; . . ."

On a close reading of the Constitution, you will note the words that I have underlined, "the last regular valuation of said city or town," which would be that of April 1, 1947, by the local assessors of the town, rather than the last regular valuation determined by the State Tax Assessor.

RALPH W. FARRIS  
Attorney General

September 12, 1947

To W. E. Chase, Director, Division of Tobacco Tax

Your memo of September 12th received, relating to the amendment to the Unfair Sales Act, provided in Chapter 130, P. L. 1947. You call my attention to the fact that this statute defines the term "sub-jobber" as follows:

IX. "The term 'sub-jobber' shall mean and include a wholesaler who purchases cigarettes at wholesale for the purpose of resale to retail dealers,

and who maintains a regularly established place of business where stocks of cigarettes are kept for sale and whose sales are chiefly to other persons for resale."

In connection with this you state that your department is preparing new application forms for wholesale dealers' licenses, and you request my opinion in regard to the following question which you plan to print on said application:

"Will you sell at least 75 per cent of your cigarettes, cigars, and tobacco products to other persons for resale?"

You inquire if you have authority to set 75% of the applicant's sales as a minimum, or if this figure should be 51%, or some other amount, in order to determine whether their sales are "chiefly" at a wholesale rate.

In answer to your question I will say that the word "chiefly" in the clause, "whose sales are chiefly to other persons for resale," in the amendment, Chapter 130, P. L. 1947, means in law, "in the first place, principally, pre-eminently, above all, especially, for the most part, mostly, mainly." Our courts have decided in some cases, where people were required to be "chiefly" engaged in tillage of the soil, that if they devoted only about 50% of their time to it, they were not farmers within the federal act. Therefore in my opinion 75% of the sales would comply with the wording, "whose sales are chiefly to other persons for resale," and you have a right to set that percentage.

RALPH W. FARRIS  
Attorney General

September 12, 1947

To Harland A. Ladd, Commissioner of Education  
Re: Contracts for School Buses

Referring to your memo of September 5th, relating to time-purchases of school buses and requesting an opinion as to the legality of towns purchasing school buses to be paid for over a period of three years:

I refer you to Section 8 of Chapter 37, R. S., relating to the transportation of pupils, which provides that contracts for said conveyance may be made for a period not to exceed three years. I feel that that is broad enough to cover the purchase of school buses for the purpose of carrying out the provisions of this section.

As you well know, the law provides that in all cases the conveyance of children shall conserve their comfort and safety, shall be in charge of a responsible driver, etc., and if the selectmen and the superintending school committee see fit to purchase buses on conditional sales contracts for a period not to exceed three years, I think this would be well within their rights under Section 8.

RALPH W. FARRIS  
Attorney General