

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

Answer, Yes. Under Section 4 of Chapter 329, P. L. 1947, a new section is numbered 42-F, and under subdivision III thereof all improved sections of federal, state, state aid, third class and so-called Resolve highways are excepted from the definition.

RALPH W. FARRIS
Attorney General

October 20, 1947

To Hon. Horace Hildreth, Governor

I have been requested by the Chief Warden of the Inland Fisheries and Game Department to advise you whether under our statutes the power is vested in any one to extend the open season in view of the closing of the woods to hunting on account of the long and continuous dry spell which we are now experiencing.

The statutes are very specific in the provisions fixing the periods during which game may be hunted by setting forth the opening and closing days, or by providing for an open season during a specific period and declaring all other time as closed season.

No provision, however, is made to meet a situation when on account of the great fire hazard due to lack of rain, hunting is banned until the danger no longer exists. Nor is anyone vested with the power to change, modify or extend the time for hunting.

While the Governor, by the Public Laws of 1945, Chapter 344, the title of which is AN ACT Relating to the Prevention of Forest Fires, is authorized by proclamation to suspend the open season for hunting and fishing or to prohibit smoking and building fires out of doors in the woods, and to "annul" the suspension when the fire hazard has been eliminated, there is nothing in this act which either expressly or by implication authorizes the Governor to continue the right to hunt during the closed season for the number of days the suspension is operative.

I must, therefore, advise you that the open season for hunting the various types of game cannot be extended beyond the dates specifically fixed in each case by the provisions of the Inland Fish and Game Laws.

I think perhaps that this is a matter that may be referred to the Legislative Research Committee, to study the present legislation and see if the same should not be modified to meet a situation such as now confronts us.

ABRAHAM BREITBARD
Deputy Attorney General

October 31, 1947

To Major Joseph F. Young, Jr., Deputy Chief, Maine State Police

Receipt is acknowledged of your memo of October 15th, wherein you ask this department to advise with regard to Section 116 of Chapter 19 of the motor vehicle laws, as amended by the Public Laws of 1947, Chapter 320. Your inquiry is whether a car may have more than one spotlight, or whether it is limited to one. Doubt has arisen because of the wording of the law, which is:

"There shall not be used on or in connection with any motor vehicle a spotlight so-called . . . except that such spotlight may be used for the purpose of reading signs and as an auxiliary light in case of necessity when the other lights required by law fail to operate."

I believe that the intent was not only to prohibit the use of, but to limit the number of spotlights that may be attached to an automobile. Hence I advise you that this statute would be violated if more than one spotlight were affixed to the motor vehicle.

ABRAHAM BREITBARD
Deputy Attorney General

November 4, 1947

To Laurence C. Upton, Chief, Maine State Police
Re: Chapter 320, P. L. 1947

This department acknowledges receipt of your memo of October 27, 1947, which is in part as follows:

"Reference is made to the above named law relating to the regulation of spot, fog, or auxiliary lights.

"The last sentence of this law provides: 'This section shall not apply to ambulances, police and fire department vehicles, vehicles engaged in highway maintenance, wreckers and public utility emergency service vehicles.'

"We would like your opinion on the exact meaning of '—police and fire department vehicles—'. We have two specific questions in mind: (1) Would this include vehicles used by volunteer firemen? There are two problems presented, one where the municipalities pay mileage for the use of the vehicle, and the second where the vehicle is furnished gratis. (2) Would it include vehicles used by fire investigation and inspection services, such as the Bureau of Fire Prevention, Inspection and Investigation of the State Insurance Department?"

The vehicles above mentioned in categories one and two are excluded from the operation of the excepted vehicles contained in the sentence quoted. The words "police and fire department vehicles" are well understood to mean the vehicles of an organized police or fire department, belonging to the department. In the case of a fire department, it would include not only the fire-fighting apparatus and equipment, but also the vehicles used by the fire chief and his deputy, provided by the municipality as department vehicles. It would not apply to the private pleasure cars used by volunteer firemen. In other words, it would not include a vehicle used for pleasure or business and when the occasion demands it, to go to a fire, but relates solely to vehicles built, equipped and used solely in the extinguishment of fires.

ABRAHAM BREITBARD
Deputy Attorney General