

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

highway. The use of reasonable caution, however, is the provision in the statute, which is no more than the general rule: namely, the exercise of due care under the circumstances of the particular situation with which one is confronted. The section of the statute is Chapter 19, Section 111, which is as follows:

“Sec. 111. When approaching frightened animal, vehicles to be stopped if signal is made; passing animal or vehicle from rear. Whoever, driving or operating a motor vehicle upon any way, when approaching from the opposite direction a person riding, driving, or leading a horse or other animal which appears to be frightened, is signalled by putting up of the hand or by other visible sign by such person, shall cause such motor vehicle to come to a stop as soon as possible and remain stationary as long as it may be necessary and reasonable to allow such horse or animal to pass. Whenever traveling in the same direction, the person operating a motor vehicle shall use reasonable caution in passing horses or other animals and vehicles.”

You will notice that when a motor vehicle is approaching from the opposite direction, the person riding, driving or leading a horse or other animal which appears to be frightened, may signal to the motorist, which signal imposes the duty upon the operator of the motor vehicle to stop as soon as possible and remain stationary, giving the horse or other animal reasonable time to pass. When traveling in the same direction, however, the person operating the automobile is required to use reasonable caution in passing the horse or other animal. The first part of this section is quite clear. It requires some signal by the person driving or leading the animals to give warning that the animals may become frightened or are unaccustomed to motor vehicles. The driver of the car must then bring his car to a stop and wait till the animals pass. On the other hand, when the vehicle is traveling in the same direction as the horse, the exercise of reasonable caution is required, and this is governed by the specific situation that arises. For example, a motorist following a horse, when another car is approaching from the opposite direction and the width of the traveled part of the highway is not sufficient for him to pass at a reasonably safe distance from the horse, should slow down and wait until the car coming from the opposite direction has passed, thus giving him a wide sweep around the horse for the purpose of passing. It all boils down to the exercise of due care, considering the circumstances and the many factors which enter into the situation, as do the rules for passing another vehicle or a pedestrian walking along the highway in the same direction.

ABRAHAM BREITBARD
Deputy Attorney General

April 27, 1949

To Raymond A. Derbyshire, D.M.D.

. . . The statute, Chapter 139, Section 2, of the Public Laws of 1947, clearly prescribes in detail what a dental hygienist may do. Furthermore, under Section 21 of Chapter 66 of the Revised Statutes of 1944, no person may practice as a dental hygienist unless she has passed an examination before the Dental Board and possesses a certificate of her ability to practice.

My suggestion would be that if a registered nurse wants to practice as a dental hygienist, she be licensed as such by the Board. That would be the easiest way of handling the situation. . .

You will note that sodium fluoride treatments are specifically provided for in the amendment of 1947 which appears in black-faced type, "make local applications of medicants to the surfaces of the teeth and gums." I do not know why a registered nurse does not qualify for a certificate as a dental hygienist.

ABRAHAM BREITBARD
Deputy Attorney General

April 28, 1949

To Honorable Harry M. Brown
House of Representatives

You have requested a letter from this department regarding the imposition of additional taxes by another and additional assessment in any one taxable year.

Under our statutes and the interpretation placed thereon by the court, assessments are made as of April 1st, based upon the amount of money which the voters at annual meeting vote to raise. When this assessment is made in accordance with statute, there can be no further assessment.

While there is provision for a supplemental assessment, this additional assessment relates solely to property that has been omitted or a tax is invalid or void by reason of illegality. Where all the property of the taxpayer has been assessed without any omission of property therefrom, he cannot be again taxed to raise revenue during the taxable year.

ABRAHAM BREITBARD
Deputy Attorney General

May 5, 1949

To Richard E. Reed, Commissioner of Sea and Shore Fisheries
Re: Refund of License Fees

I have your memo of April 22nd relating to the emergency acts approved by the Governor on March 25th and April 14th, repealing the license requirements on shellfish shucking and special Atlantic salmon fishing.

You state that to date forty-eight \$3 shucking licenses and several \$3 and \$5 special Atlantic salmon fishing licenses have been issued for the year 1949, and you request me to inform your department whether or not refunds are in order.

In my opinion, the money paid by licensees for fishing licenses for certain purposes, those purposes having been revoked by the legislature, should be refunded to said licensees by your department.

RALPH W. FARRIS
Attorney General