

# 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**

allotments to commercial carriers operating on a regular schedule, to assist them in snow removal when the state, federal or municipal owner of an airport does not obligate itself to take care of snow removal. Chapter 245 does not involve aid to municipalities, but on the contrary aid to the commercial carriers themselves.

JOHN S. S. FESSENDEN  
Deputy Attorney General

September 22, 1949

To H. H. Harris, Controller  
Re: Mileage

You have asked whether Chapter 368 of the Public Laws of 1949, "An Act Relating to Automobile Travel by State Employees," authorizes the reimbursement to State employees effective at the beginning of the fiscal year at the rates prescribed therein, or becomes effective for reimbursement purposes only as of August 6, 1949.

I have examined Chapter 368 of the Public Laws of 1949 and also Chapter 396 of the Public Laws of 1947 concerning which latter chapter the identical question was raised. In connection with Chapter 396 of the Public Laws of 1947 the then Deputy Attorney General, Mr. Abraham Breitbard, addressed an opinion to you dated May 28, 1947, in which he stated that it was clearly the intention of the legislature to provide the increased allowance per mile to begin immediately after the expiration of the act which increased such allowance in 1945. Since the facts surrounding the enactment of Chapter 368 of the Public Laws of 1949 are identical with the facts concerning Chapter 396 of the Public Laws of 1947, upon which Mr. Breitbard expressed his opinion, his opinion not having been overruled, it serves as a precedent and may be followed in the administration of the provisions of Chapter 368 of the Public Laws of 1949.

If additional authority were necessary, I might point out that Chapter 396 of the Public Laws of 1947 included a second section limiting the force of that chapter to a period of two years. That chapter having become effective on August 13, 1947, its effect might be construed to continue to August 12, 1949. Chapter 368 of the Public Laws of 1949, repealing that chapter, became effective on August 6, 1949, and upon such construction there would obviously be no hiatus between the two enactments.

JOHN S. S. FESSENDEN  
Deputy Attorney General

September 22, 1949

To Col. William B. Williamson  
Re: "Theatrical Productions"

In response to your inquiry relating to the language of Chapter 440 of the Public Laws of 1949, which is an amendment to Section 39 of Chapter 121, Revised Statutes of Maine, which relates to recreation on the Lord's day, I will say that the amendment of 1949 included the exemption of musical concerts and theatrical productions. You inquired of me this morning whether that would include vaudeville productions.

The term "theatrical productions" is broad and has been judicially defined to include many kinds of entertainment. For example, "'Vaudeville' is a term describing a species of theatrical entertainment, composed of isolated acts forming a balanced show." The word "production," from a theatrical standpoint, means the act or process of producing, bringing forth, or exhibiting to view. The word "theatre" from the Greek means literally "place for seeing." Standard authorities define it as a building adapted to dramatic, operatic or spectacular representations, or a play-house.

Therefore it is my opinion that the language of the statute would include vaudeville shows produced in a theatre, which, when composed of several acts, form a whole show.

RALPH W. FARRIS  
Attorney General

September 22, 1949

To Honorable Edgar F. Corliss, Public Utilities Commissioner

Reference is made to your letter of September 22, 1949, in which you asked my interpretation of the meaning of Section 22 of Chapter 44, R. S. 1944, in the light of paragraph E of subsection I of Section 27 of the same chapter, as those sections pertain to a motor vehicle carrier for hire transporting pulp wood 30 miles by private way in the State of Maine, 30 miles by public highway to the boundary of the State of Maine, and thence 33 miles in the State of New Hampshire.

Section 22 of Chapter 44 was amended by Chapter 263 of the Public Laws of 1949 in respects which, I believe, are immaterial to your present question.

Paragraph E of subsection I of Section 27 was amended by Section 1 of Chapter 212 of the Public Laws of 1949 by inserting immediately thereafter the words "by highway."

Section 22 states that its purpose is to provide proper supervision and control of the use of the "highways of this state." Prior to the amendment to Section 27 referred to above, in 1949, paragraph E referred to the hauling from the woodlot or forest area to points within 40 miles thereof, but did not state whether such distance included private ways or public ways or both. By the amendment inserting the words "by highway" in this paragraph, it would appear that the legislature intended the supervision of the Public Utilities Commission to be measured only by miles of usage of public highways. Since the Public Utilities Commission does not have jurisdiction beyond the borders of the State of Maine, it follows that the mileage an excess of which gives rise to Public Utilities Commission supervision must be mileage over public highways in this State.

My interpretation of the question which you raise is, then, that on the facts presented in your letter of September 22, 1949, the motor vehicle carrier would not be required to obtain a permit for such operation from the Commission.

RALPH W. FARRIS  
Attorney General