

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

sovereign power and in the performance of which the public is concerned, of a continuing nature, etc.

In particular instances where a member of the Legislature is being considered for a position the emoluments of which have been increased by the legislature of which he is a member, the problem should be submitted to this office for final determination.

JAMES G. FROST
Assistant Attorney General

June 26, 1951

To Mrs. Evelyn D. Marshall, Factory Inspector, Labor and Industry
Re: Authority under secs. 22 and 24, Ch. 25, R. S. 1944

In your memo of June 15, 1951, you request an opinion relative to the regulation of female employees working in ice cream stands similar to the stands known as "Dairy Queen", "Dairy Treat", etc.

The statute under consideration regulates the employment of females in various fields including manufacturing, mechanical or mercantile establishment, hotel, restaurant, etc.

It is our opinion that such businesses come under the heading of manufacturing establishment, and operators of such establishments are subject to the laws relative to manufacturing establishments.

You will note that under Chapter 184, Public Laws of 1951, effective August 20, under "Definition", the following definition is given:

"Retail manufacturer' shall mean any manufacturer of frozen dairy products who is not defined as a wholesale manufacturer."

JAMES G. FROST
Assistant Attorney General

June 26, 1951

To Honorable Frederick G. Payne, Governor of Maine
Re: Liquor Research Commission; School Building Commission

Your memo of June 22d received and the following are answers with respect to your inquiries concerning the Liquor Research Commission and the commission created by the Maine School Building Authority.

Question 1. Mr. Obert, Chairman of the Liquor Research Commission created by Chapter 213, P&SL 1949, asks if that Commission is to continue functioning or has ceased to exist.

Answer. It is our opinion that the Commission created in 1949 continues until the effective date of the 1951 Act (Ch. 218, P&SL 1951), at which time a new Commission should have been appointed and qualified, to continue the work started by the 1949 Act, and to perform its other prescribed duties.

If the present Commission has funds available, it may continue its duties until August 20, but funds appropriated for the fiscal year 1951-1952 will, of course, be unavailable to the present Commission.

Question 2. You inquire further with regard to the status of the Commission created by Chapter 437, Public Laws, 1949, "An Act to Provide Financial Assistance to Cities and Towns in the Construction of School Buildings," and that Commission's relation to the Commission set up by Chapter 405, Public Laws, 1951, under "An Act Creating the Maine School Building Authority."

Answer. The 1949 Act, which to all intents and purposes appears to be completely encompassed by the new 1951 Act, was not directly repealed, and its continued presence is due to the Act's ability, by its provisions, to accept Federal funds, in the event such funds are made available to the State.

Because of this and the further fact that the members of the Commission contemplated by the 1951 Act are composed of certain individuals of a different status than the members of the Commission of the 1949 Act, it would seem that the same Commission would not continue as the Commission under the 1951 Act, but that it will be necessary for a new Commission to be appointed.

There would be no objection to an individual's serving on both Commissions, provided he is eligible under both Acts.

JAMES G. FROST
Assistant Attorney General

June 29, 1951

To: The Mayor and Municipal Officers,
City of Lewiston (Water Department)

An opinion having been requested of the Attorney General as to whether or not the City of Lewiston is subject to, and bound to register as a retailer under the provisions of the "Sales and Use Tax Law", so-called, as contained in Chapter 250, Public Laws 1951, in connection with the sale and distribution of water, you are advised as follows:

The City of Lewiston has been, and still is, authorized by the laws of Maine (in a series of Private and Special Laws), to furnish and supply water to its inhabitants, and this office understands that the city itself is, in fact, the supplier of such water, there being no separate water district or water company.

Section 3 of the Sales and Use Tax Law provides in part:

"A tax is hereby imposed at the rate of 2% of the value of all tangible personal property, sold at retail in this state on and after July 1, 1951, measured by the sale price. . ."

That the statute in question contemplates a tax on the sale of water is clearly evidenced by the following language which also appears in section 3 thereof:

"The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the public utilities commission, shall be added to the rates so established."