

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

hereafter become extinct, and shall deposit all such records in a place of safety and accessibility for future preservation and use.”

It is our opinion, from a reading of this statute, that the collection of such records is mandatory on the part of the Commissioner of Education, in other words that this portion of the statute compels you to collect the records of all institutions within the State which are now out of existence or hereafter go out of existence.

JAMES G. FROST
Assistant Attorney General

September 5, 1951

To S. F. Dorrance, Livestock Specialist, Department of Agriculture
Re: Dogs

Your memo of August 24, 1951, has been received. This relates to Chapter 88, Section 12, R. S. 1944.

Under that statute town officers are directed to seek out, catch and confine all dogs within their territory that are not licensed, collared and tagged. These dogs have to be detained for a period of not more than six days. You ask upon whom the expense falls for feeding, advertising, and attempting to locate the owners, during that six-day period.

It is our opinion that the expense falls:—

- 1) Upon the owner, and it must be paid by him upon claiming the dog; or
- 2) By the city or town which orders such animal to be taken, in the event that the owner fails to appear.

JAMES G. FROST
Assistant Attorney General

September 10, 1951

To Fred E. Holt, Supervisor, Forestry
Re: Portable Sawmills

Your letter of September 5, 1951, has been received by this office. You state that the Recorder of a municipal court has rendered a decision that it is not necessary for a mill owner to be licensed under Chapter 423, Section 72, Public Laws of 1949, which requires a license for a primary wood-using saw-mill which is “portable” by definition, if that mill is on land owned by the operator. You state that this opinion is subject to change if the Attorney General’s office will submit a written opinion that such an operator, even though the mill is on his own land, is subject to license.

Please be advised that the Attorney General’s office does not render advisory opinions to municipal courts or other justices. Our duties are strictly limited by law to advising the Governor and Council, the legislature, and the heads of State departments in regard to State business. Although we frequently find it necessary to appear in court to argue, we may not render opinions

which will influence the court in its decisions. However, we may consider this request to be one made by your department and therefore we feel to give you the opinion of this office.

It is well settled that the State may, under its police power, regulate businesses, occupations and trades, and this power includes the right to regulate by license certain businesses. These businesses must be reasonably classified, but we feel that portable sawmills are so classified. That there is a reasonable nexus to this classification is seen when you realize that the regulation is a forest fire prevention regulation.

As to whether certain persons in that classification, such as persons owning the land upon which the mills are situated, are exempt from such a license, the general rule is that, under the police power, a license must be directed against the business or practice, not against one or more of the persons who may be engaged in it.

It is, therefore, our opinion that a mill operator who owns the land upon which such a mill is situated is not exempt from the requirement of a license.

JAMES G. FROST
Assistant Attorney General

September 10, 1951

To Paul A. MacDonald, Deputy Secretary of State
Re: School Bus – Signal Law

Your memo of September 4, 1951, in which you inquire if a school bus is required to give signals in accordance with the requirements of Chapter 301 of the Public Laws of 1951, has been received by this office.

The term "bus" is not defined in our statutes, but the term "school bus" is defined in Section 9, Chapter 37, of the Revised Statutes. Chapter 301, P. L. 1951, definitely excludes buses from the necessity of making such signals as are required by that section; and we feel that "school bus" as defined by our statutes comes within the exclusion. This opinion is further substantiated by Section 9 of Chapter 37 of the Revised Statutes, which requires that such school buses shall be equipped with stop lights of a type approved by the Secretary of State. Such requirement being specifically included in one section, it would appear that the requirements of Chapter 301 are not applicable.

This opinion should not in any way be construed to exempt the driver of a school bus from liability due to negligent acts on his part while operating a school bus.

JAMES G. FROST
Assistant Attorney General

September 10, 1951

To Harland A. Ladd, Commissioner of Education
Re: Employment of Aliens

This office is in receipt of your memo of August 27, 1951, in which you