

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

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

sought our opinion as to whether it is legal to employ aliens as administrators or teachers in

- a) the public schools, or
- b) private academies which receive State aid.

Please be advised that it is our opinion that Section 5, Chapter 11, R. S. 1944, as amended, is not a bar to the hiring of aliens as superintendents and teachers in public schools or private academies.

JAMES G. FROST  
Assistant Attorney General

September 10, 1951

To W. Earle Bradbury, Deputy Commissioner, Inland Fisheries and Game  
Re: Expenditures for Publicity

In your memo of August 16, 1951, you quote paragraph 10, Section 63, and Section 110 of Chapter 33 of the Revised Statutes and ask whether a portion of these funds can legally be expended for promotion and publicity, sportsmen's shows, or educational purposes and such cost be reimbursed in whole or in part by those municipalities for which you have put on such publicity programs.

It is our opinion that there is nothing illegal in receiving reimbursement from those municipalities for which you have put on such shows. However, we do not feel that you should demand reimbursement from these towns or accept sums in excess of the actual cost.

JAMES G. FROST  
Assistant Attorney General

September 10, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Vacancy in Office of Register of Probate

The attention of this office has been drawn to the death of Donat J. Levesque of Lewiston, Register of Androscoggin County Probate Court until the time of his death.

The vacancy created by the death of Mr. Levesque may be filled according to the following procedure:

1. Section 27, Chapter 140, Revised Statutes of 1944, provides that in case of the death of the register of a probate court the judge shall appoint a suitable person to act as register until another is qualified in his stead.
2. Article VI, Section 7, Constitution of Maine, provides that vacancies occurring in the office of Register of Probate by death, resignation, or otherwise, shall be filled by election. . . at the September election next after their occurrence; and in the meantime, the Governor, with the advice and consent of the Council, may fill such vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid.