

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

We do not say that a Council Order may not be evidence of an encumbrance. For instance, a Council Order accepting a bid, which bid has been duly and properly received, would be a further step in firmly encumbering a sum of money needed in anticipation of a contract to be executed as a result of the acceptance of the bid.

We are saying that, in the absence of a particular transaction resulting in a legal obligation on the part of the State, a Council Order merely intending to carry forward a sum of money from one fiscal year to the next, would not, in our opinion, constitute a legal encumbrance.

ALEXANDER A. LaFLEUR

Attorney General

July 13, 1953

To Marion Martin, Labor Commissioner

Re: Employment of Minors in Garages and Filling Stations

We have before us a request from your department for an opinion as to whether or not garages and filling stations, either with or without grease lifts, or other mechanical devices, come within the term "mechanical establishment" as used in Section 2 of Chapter 290, P. L. 1949, which prohibits employment of minors under 16 years of age in certain business establishments.

The test for a manufacturing or mechanical establishment is, according to the authorities, whether or not the mechanical element predominates. The mere fact that machinery, mechanical labor or mechanical appliances are used does not necessarily characterize the establishment as a mechanical one.

It therefore appears that a distinction should be made between garages and filling stations. A garage is normally a place where repairing and storing of motor vehicles is carried on. A filling station is a place where the principal business is the sale of gasoline and motor oil.

It is therefore the opinion of this office that garages are within the prohibition of the section referred to and are not suitable places for children to work. Filling stations, however, would not be within the prohibitions of the section and are suitable.

JAMES G. FROST

Deputy Attorney General

July 27, 1953

To General Spaulding Bisbee, Director, Civil Defense

Re: Compensation of Auxiliary Firemen

Your memorandum of July 8th propounds questions relative to Section 20 of Chapter 298 of the Public Laws of 1949, having to do with compensation for injuries received in line of duty.

You say that a question arises as to whether or not auxiliary firemen who are sent out to fight a forest fire and who are members of the Civil Defense would be protected by the fact that the mission was called a training period.

You say that in your judgment the only way to train these auxiliary firemen properly is to give them some such actual practice.

It would appear that such members of Civil Defense as are so used would be protected by either one of the following procedures:—either that, as suggested, the project be designated a training period or that contact be made with the Forestry Department and the members engaged by them, in which case they would be protected as State employees engaged by the department for fire protection.

It is the opinion of this office that your members would be protected in either manner.

NEAL A. DONAHUE  
Assistant Attorney General

August 13, 1953

To H. H. Harris, Controller

Re: Automobile Mileage of State Fire Inspectors

This office has in hand a memo dated August 6, 1953, in the following terms:

“Chapter 168, Public Laws of 1953, relates to Automobile Travel by State Fire Inspectors and, in effect, changes the rate of reimbursement for this class of employees from a straight 8 cents per mile to not more than 7 cents per mile for the first 5000 miles actually travelled in any one fiscal year and 6 cents per mile thereafter. The chapter is effective August 8, 1953.

“Question: Is the mileage travelled between July 1, 1953 and August 8, 1953 to be considered as part of the first 5000 miles travelled during the fiscal year or do these employees start their first 5000 on August 8?”

*Answer.* Under the provisions of Chapter 168 of the Public Laws of 1953, fire inspectors start their first 5000 miles on August 8th. Until August 8th fire inspectors had unlimited mileage at the rate of 8 cents a mile and they only come under a limited mileage basis on August 8th. It would logically follow that they then should start on a 5000-mile basis.

JAMES G. FROST  
Deputy Attorney General

August 13, 1953

To Earle R. Hayes, Secretary, Maine Retirement System

Re: Ten-Year Vested Right Amendment

Section 2 of Chapter 412 of the Public Laws of 1953 amends subsection VIII of Section 3 of Chapter 60 of the Revised Statutes so that, as amended, subsection VIII reads as follows:

“VIII. Any employee who is a member of this retirement system may leave state service after 10 years of creditable service and be entitled to a retirement allowance at attained age 60 provided the contributions made