

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

to the Commissioner for the regulation of certain portions of the Swan Island Area, and these are the only controls which he may exercise.

JAMES GLYNN FROST
Deputy Attorney General

March 22, 1954

To Carl T. Russell, Deputy Commissioner of Labor and Industry
Re: Tagging of Life Preserver Buoyant Cushions

We have before us an inquiry from a law firm in Pittsburgh relative to the application of Chapter 333 of the Public Laws of 1953. More specifically, they question whether a life preserver cushion is an article of bedding or an article of upholstered furniture within the meaning of I and II of Section 123 of said chapter.

After some deliberation this office has come to the conclusion that these buoyant cushions are not articles of furniture or bedding within the meaning of the act. It does not take much discussion to show that they are not articles of bedding within the meaning of the act. There may be some room for argument that they are articles of upholstered furniture, especially where the definition says, "all furniture in which upholstery or so-called filling or stuffing is used whether *attached* or not."

We find in our search of the cases that the term "furniture" generally means all personal chattels which may contribute to the use or convenience of the householder or an ornament of the house. See *Marquam v. Singfelder*, 32 P. 676, 24 Ore. 2; *Rasure v. Hart*, 18 Kan. 340.

It is plain to see that the article in question has no household use, but is manufactured primarily to be used aboard a vessel. We could argue indefinitely as to whether the purpose of this cushion is to use it as a seat or to preserve life, but it would not enhance this opinion to decide this matter. We would, however, point out the general rule of construction that where a statute imposes a tax *or other burden* on a citizen and is fairly susceptible of more than one interpretation, the courts will incline to that most favorable to the citizen. *M.U.C.C. v. Androscoggin Junior, Inc.*, 137 Me. 160; *Portland Terminal Co. v. Hinds*, 141 Me. 72.

ROGER A. PUTNAM
Assistant Attorney General

March 22, 1954

To Major Donald Herron, Deputy Chief, Maine State Police
Re: Overloading Allowance

We have a request from Lt. Mariner of Troop B relative to the following situation:—

A truck is registered for 48,000, with brakes on all three axles, 18 ft between axle extremes, and hauling forest products. The question is, "would this truck receive the benefit of a 5% tolerance?" That is, would an overload under the