

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

It is my opinion that under the police power vested in the State, there is no liability, and I advise that if this issue is raised, the Joint Board should refuse to take jurisdiction, and let the point of law go forward.

L. SMITH DUNNACK  
Assistant Attorney General

March 20, 1957

To Honorable Arthur Charles, Senate Chamber

Re: Business Hours of Barber Shops

This is in response to your oral request for an opinion on L. D. 802. In brief, this bill provides the mechanism whereby the barber shops in municipalities may be regulated as to the days and hours which they may remain open for business.

We herewith quote comment found in Volume 7 of American Jurisprudence, page 617, relating to the fixing of closing hours of barber shops:

“The majority of the cases which have considered the validity of ordinances containing provisions requiring barber shops to be closed at a certain fixed time on secular days have reached the conclusion that such provisions have no reasonable relation to the admittedly proper exercise of the police power in regulating the profession of barbering. Any such regulations depend for their validity upon the nature of the business sought to be regulated; that is, the nature of the business must be such that the public health, morals, safety, or general welfare is, or might be, affected by such business being permitted to remain open or continue after certain hours. With regard to barber shops, such a regulation bears no reasonable relation to the public health or general welfare; nor can it be supported on the theory that it will aid the enforcement of proper inspection regulations.”

It appears to be the essence of the cases cited in the above quoted comment that to pick out barber shops as the one lawful business the closing hours of which are to be regulated is discriminatory. The Legislature may enact discriminatory legislation on particular classes under the police powers if in fact the public health and welfare, morals, or safety are affected by such class. However, as quoted above, the regulating of the hours of the business of barbering has been found not to affect the public health and welfare, morals, and safety.

It is our opinion that in all probability such a statute would meet with the same objection as similar statutes have met in other States.

JAMES GLYNN FROST  
Deputy Attorney General

March 27, 1957

To Ernest H. Johnson, State Tax Assessor

Re: Excise Tax on Foreign Cars

I received your memo of March 25, 1957, together with attached memorandum dated March 1, 1956 and furnished to excise tax collectors in Maine,