

MAINE STATE LEGISLATURE

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November 1, 1957

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To Austin H. Wilkins, Deputy Forest Commissioner
Re: Tree Work by Unlicensed Persons

This is in response to your letter of October 24, 1957, in which you ask for an opinion on Chapter 169, Sections 66 and 67, of the Public Laws of 1957. Your question relates primarily to Section 66, which reads as follows:

"No person, firm or corporation shall advertise or solicit contracts to remove shade, roadside or ornamental trees, nor advertise, solicit or contract to improve the condition of such trees by pruning, trimming or filling cavities, or to spray or treat by any other method such trees or forest trees for control of any insects or diseases, without having secured a certificate as specified in section 67; except that any person may remove, improve or protect any trees on his own premises or on the property of his employer without securing such a certificate."

With respect to Section 66 you ask the following question:

"Can court proceedings be brought against an unlicensed person doing tree improvement work as now provided under these two sections? Or in order to prosecute, would it be necessary instead to verify the date of and the act of soliciting or of contracting for tree improvement work done by an unlicensed person?"

A reading of the above section of law convinces us that the gist of the crime is not the actual work on the trees, but the advertising, solicitation or contracting for such work on shade, roadside or ornamental trees. This being so, it would be necessary to prove such advertising, solicitation or contracting. No doubt, evidence of actual work would be corroborative evidence of the contract or solicitation, but, as indicated above, the gist of the crime is not the actual work. *which about contract to?*

James Glynn Frost
Deputy Attorney General

jgf/c