

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

April 25, 1958

To David H. Stevens, Chairman, State Highway Commission

Re: Access for the Purpose of Servicing Billboards

You have requested my opinion as to the power of the Commission to make a regulation relating to restrictions on the use of a controlled access road as a means to servicing billboards erected in fields abutting the right of way.

Section 7, Chapter 23, says:

“The Commission shall have full power to regulate the use of controlled access highways, etc. . . .”

Section 6 says:

“A controlled access highway is a highway on which, in the interest of safety and efficiency of operation, abutting property owners have no right of access,”

To permit an employee of an outdoor advertising company to have access to and from adjacent property and to have the right to climb over a fence (which is erected to keep people out of the right of way) would be contrary to the letter of the law and the spirit of the law. It could be classified as a special commercial privilege.

Except in degree, there is no distinction between granting this right to facilitate a business that is benefiting by the existence of the road, and between granting a gasoline station an entrance. There is no difference in principle, but only in degree of usage.

It is true that the Commission is the sole arbiter of where and when access is to be permitted; but, to grant this type of access would be violating the principle of non-access on the principle of permitting a few concerns to make more money.

L. SMITH DUNNACK
Assistant Attorney General

April 29, 1958

To Kenneth B. Foss, Director, Consumer Credit Division, Banking Department

Re: Out-of-State Sales Finance Company

You request an answer to the following question:

“Can a license be granted to a New Hampshire firm to engage in the business of a sales finance company, when that New Hampshire firm has no place of business in the State?”

As background to be considered in answering the above question, you state that the firm maintains its only offices outside the State of Maine. Its business with Maine dealers is carried on by mail, and no agents or officers are located in the State of Maine.

Answer. In our opinion a license to engage in the business of a sales finance company may not be granted to a foreign firm under the above circumstances.

The statutes relating to the licensing of sales finance companies contain numerous provisions which require us to rule that, in order to obtain such a license, the licensee shall be engaged in the business *in this State* and maintain an office in this State.

“Sales finance company” is defined in Section 249 of Chapter 59 of the Revised Statutes of 1954 to mean:

“a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers.”

So much of the definition is pertinent for our consideration.

Chapter 59, Section 250, R. S. 1954, reads in part as follows:

“I. No person shall engage in the business of a sales finance company or retail seller in this State without a license therefor as provided in sections 249 to 259, inclusive . . .

“II. . . . The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owners or partners or, if a corporation or association, of the directors, trustees and principal officers, the trade name, if any, under which the applicant proposes to conduct such business, and such other pertinent information as the Bank Commissioner may require.

“III. The license fee for each calendar year or part thereof shall be as follows:

A. . . .

B. For a sales finance company, the sum of \$100 for the principal place of business of the licensee within this State, and the sum of \$25 for each branch of such licensee maintained in this State. . . .

“IV. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the Bank Commissioner shall endorse the change of location on the license without charge.”

From the above quoted portions of the law we gather that a sales finance company which conducts its business outside the State of Maine and which has no office in this State may not be licensed as provided in Section 250. We believe that the above provisions of law clearly contemplate that such licensee shall be doing business in the State of Maine and have officers and offices in the State of Maine.

JAMES GLYNN FROST

Deputy Attorney General