

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

and these employees are engaged with you for educational purposes, as teachers. Their terms of employment are brief but otherwise seem to be regular, and I think that the protection of the Workmen's Compensation Act would apply to them.

NEAL A. DONAHUE
Assistant Attorney General

September 24, 1958

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Raft or Boat as Stationary Blind

. . . You ask for an interpretation of the third paragraph of Section 89 of Chapter 37 of the Revised Statutes of 1954, which reads as follows:

"No artificial cover which is termed stationary blind, or parts thereof, used for hunting purposes shall be left or allowed to remain in the waters of Merrymeeting bay between one hour after legal shooting time and one hour before legal shooting time."

You ask if a raft or boat fitted as a blind would be prohibited in Merrymeeting Bay between the hours fixed in this paragraph:—one hour after legal shooting time to one hour before legal shooting time.

For the purposes of enforcement of your laws we believe you should consider a raft or boat fitted as a blind to be an "artificial cover which is termed stationary blind", and as such should not be "left or allowed to remain in the waters of Merrymeeting bay between one hour after legal shooting time and one hour before legal shooting time".

JAMES GLYNN FROST
Deputy Attorney General

September 24, 1958

To Perry D. Hayden, Commissioner of Institutional Service

Re: Transfer of Voluntary Patient under Interstate Compact on Mental Health.

We have your memo of September 19, 1958, which reads as follows:

"This Department has recently received a request from the Massachusetts Department of Mental Health to transfer a mental patient from the Northampton State Hospital to a state hospital in Maine. Massachusetts is a member of the Interstate Compact on Mental Health and a transfer can be effected if . . . there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated and improved thereby. . . The factors referred to . . . shall include the patient's full record with due regard for the location of patient's family, character of illness and probable duration thereof, and such other factors as shall be considered appropriate." (Section II of Article III of the Interstate Compact on Mental Health, Chapter (231), Public Laws of 1957).

"The patient involved was not committed to the Northampton State Hospital but is on a voluntary status and has himself requested the transfer so that he may

be near his family. His wife and family now reside in Maine so the only point of law in question is whether or not a voluntary patient can be transferred under the terms of the Compact.

“When a committed patient is transferred from an out-of-state hospital it is necessary to have a certified copy of the commitment papers and case history forwarded with the patient. Our Consultant on Mental Health, Dr. Francis H. Sleeper, has advised this office that in his opinion if a *voluntary* patient were transferred to him he would not have the authority to retain him on the transfer papers alone, but it would be necessary for the patient to complete a voluntary application for admission to his Hospital before he would accept him.

“I would appreciate your advice as to whether or not this Department (1) can authorize the transfer of a voluntary patient under the terms of the Mental Health Compact; (2) should request a certified copy of the voluntary admission papers admitting the patient to the out-of-state hospital; and/or (3) should request that the patient complete voluntary admission papers to the state hospital in this State before the transfer takes place.”

The general over-all intent of the Interstate Compact on Mental Health compels us to the belief that all persons institutionalized for mental illness or mental deficiency, as limited by Article IX of the Compact, are embraced within the terms of the Compact, whether they have been committed or are being detained on a voluntary basis.

We are therefore of the opinion that: (1) Your department can authorize the transfer of a voluntary patient under the terms of the Mental Health Compact; (2) A request should be made for a certified copy of the voluntary admission papers admitting the patient to the out-of-state hospital; and (3) The patient should complete voluntary admission papers to the mental hospital in this State before the transfer takes place.

JAMES GLYNN FROST
Deputy Attorney General

September 30, 1958

To Ernest H. Johnson, State Tax Assessor

Re: Gasoline Tax—allowance for losses, R. S., c. 16, s. 163.

Received your memo of September 26, 1958, with attached memo from Mr. Dillon to you, dated September 25, 1958, relating to the above subject matter, where the distributor exceeded his allowance of 1% plus 1% on all transfers in vessels or tank cars to cover losses through shrinkage, evaporation or handling sustained by a distributor in the regular course of business.

The statute provides that the total allowance for such losses shall not exceed 2% of the receipts by such distributor and that no further deduction shall be allowed unless the State Tax Assessor is satisfied on definite proof submitted to him that a further deduction should be allowed by him for a loss sustained through fire, accident or some unavoidable calamity.

You ask if you are correct in taking the position that gallonage actually delivered to customers, but not accounted for in the distributor's reports to your office because of faulty meters on delivery trucks, is taxable and does not represent deductible loss under Section 163 of Chapter 16, R. S.