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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

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.

It is my opinion that you are correct in your interpretation of Section 163, Chapter 16, R. S. According to the memo from Mr. Dillon the loss claimed by the taxpayer was due to malfunctioning meters in the delivery truck, thereby under-reading the actual gallonage that was distributed. This loss does not come within the purview of Section 163 of Chapter 16, R. S., and should not be allowed.

RALPH W. FARRIS
Assistant Attorney General

October 7, 1958

To Asa A. Gordon, Coordinator, Maine School District Commission

Re: 10% Bonus to be paid to School Administrative Districts

I have your request for an opinion concerning the payment of the 10% bonus to school administrative districts.

Sec. 237-E of Ch. 443, P. L. 1957, provides:

> "When a School Administrative District has taken over the operation of the public schools within its jurisdiction, the subsidy payment that would normally be paid to the subordinate administrative units which operated the public schools within the confines of the School Administrative District prior to the formation of said district shall be paid directly to the School Administrative District."

Sec. 237-G of Ch. 443, P. L. 1957, provides:

> "When administrative units are reorganized by the formation of 'School Administrative Districts' as provided in sections 111-A to 111-U, the state subsidy paid annually to each such district, as determined in section 237-E, shall be supplemented by an additional 10% of the percent to which it is entitled through the computation in section 237-E."

Sec. 107 of Chapter 364 entitled "Appropriation" states:

> "There is hereby appropriated from the general fund the sum of $70,000 for the fiscal year ending June 30, 1958 and the sum of $85,000 for the fiscal year ending June 30, 1959 to further encourage the formation of school administrative districts, by paying in December 1957 and in December 1958, directly to such districts, if such districts are established prior to November 1st of that year, the subsidy to which the participating municipalities would have been entitled and an additional 10% of that amount."

Sec. 4 of Ch. 198, P. & S. L. of 1957, provides:

> "Such portions of sections 106, 107 and 108 of Chapter 364 of the public laws of 1957 as pertain to appropriations for the fiscal year ending June 30, 1958 are repealed."

It is my opinion that the 10% bonus to be paid school administrative districts this year, if paid out of the appropriations under sec. 107 of Ch. 364, as I assume such bonus payment will be, has a cut-off date of Nov. 1, 1958, for the eligibility for such payments. Normally an appropriation states only the amount and the purposes for which the money is to be used. Section 107 provides that the school administrative districts must be established before November 1. The word "estab-