

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1959 - 1960

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It is evident that the legislature directed that construction accounts that were encumbered because of agreements made within any fiscal year should not lapse. This statute was enacted at the same session as Chapter 378 and became effective on the same date.

The language used in Section 3 was copied from language used in former years to carry out the general policy of lapsing unexpended balances exclusive of construction accounts.

It is my opinion that the appropriation set up in Chapter 378 is definitely a construction account and that the use of the last sentence in Section 3 was not intended to change the law regarding construction accounts, but to provide for the lapsing upon the completion of the projects.

This opinion is further based on my personal knowledge that the drafters of the act had no intention to permit the lapsing of such funds, because they knew that there would be a considerable time lag between agreements and planning and the completion of the projects.

L. SMITH DUNNACK
Assistant Attorney General

January 12, 1959

To: Clayton Osgood, Chief of Division of Inspection, Agriculture

Re: Export of Substandard Sardines

I have your request for an opinion on the question of sardines which have failed to pass inspection as standard sardines, but are intended for export. As I understand the facts, these fish are packed containing at least the minimum fish per can and at least the minimum quantity of oil or sauce as required by Section 263. The cans were labeled "sardines". No broken fish were packed initially, but upon inspection, they were found to be below standard.

There are two criteria under Section 263 of Chapter 32 requiring fish to be marked "herring", namely, less than the minimum count of fish per can and less than the minimum quantity of oil or sauce. I have not been able to find any regulations issued by the Commission setting the standards for herring other than those in the statute.

Therefore, it is my opinion that in this situation, if the exporter is in compliance with the last paragraph of Section 263, that these fish can be shipped without being marked "herring".

GEORGE A. WATHEN
Assistant Attorney General

January 12, 1959

To: David H. Stevens, Chairman, State Highway Commission

Re: Authorization to Accept Federal Grant in Regard to Billboards

You have requested my opinion as to the authority of the State Highway Commission to accept the new bonus offered by the federal law in regard to billboard control.

Section 15 of Chapter 23 of the Revised Statutes authorizes the acceptance by the State Highway Commission of federal funds apportioned under the provisions of the Federal Aid Highway Act and its amendments. Sub-section (c) of Section 122 of the Federal Highway Act provides for the granting of the increase of one half of one percent in the case that the agreement set forth in sub-section (b) has been made.

There can be no question as to the power to accept the grant since it is apportioned under the provisions of the act.

The question of the right to make the agreement required by subsection (b) is not so clear. However, it is my opinion that Section 15 does delegate that power. The last sentence of that section authorizes the Commission

“ . . . to make all contracts and do all things necessary to cooperate with the U. S. Government in the construction and *maintenance of public highways, in accordance with the above* (Fed. Aid) Act, as amended and supplemented.”

Maintenance of highways covers a broad field. It includes all things that go toward making the way safe and convenient for travellers. It should be noted that sub-section (a) of Section 122 of the Federal Act uses the words “to promote the safety, convenience and enjoyment of public travel” in its purpose clause.

It is my opinion that regulation of signs and billboards adjacent to a way in the alleged interest of the safety of the users of the way is one of the many items that go to the maintenance of the way for safe and convenient travel.

Moreover, if the legislature enacts a law that brings our regulations in line with the federal requirements, the subject matter of the agreement required by sub-section (b) would not require the State Highway Commission to agree to anything beyond enforcing the state law.

L. SMITH DUNNACK
Assistant Attorney General

January 19, 1959

To: Marion Martin, Labor Commissioner

Re: Work Permits for Minors

In reading your memo and the attached copy of a letter from an attendance officer of Portland public schools we gather his questions to be, as to students generally:

1) Is a child 15 years of age attending school while in session, who applies for a permit to work part-time and still continue in school, entitled to such part-time certificate, regardless of the grade in which he is enrolled, provided the work is of a nature otherwise permissible?

Answer. No. Section 26 of Chapter 30, R. S., reads in part as follows:

“No minor under 16 years of age shall be employed, permitted or suffered to work, in, about or in connection with any gainful occupation, subject to the prohibitions set forth in section 23, unless the person, firm or corporation employing such child procures and keeps on file accessible to any attendance officer, factory in-