

# MAINE STATE LEGISLATURE

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December 29, 1959

Dean Fisher, M.D., Commissioner    Att: E. W. Campbell, Dr.P.H., Director  
George C. West, Assistant Attorney General    Division of Sanitary Engineering

**Eating Places in Charitable, Educational, or Philanthropic Institutions**

In your memo of November 13 you asked the question "Is the Department obligated to require a license from eating places operated by charitable, educational, or philanthropic institutions?" Answer: In looking at the Statute on Eating and Lodging Places the only exceptions listed are in Chapter 24, Section 164. In this section there is an exception as follows: "Licenses shall not be required from dormitories of charitable, educational, or philanthropic institutions". A reference to the dictionary indicates that a dormitory is a room usually containing several beds; a building maintaining sleeping rooms. Therefore, it would appear that the exemption listed in Section 164 relating to charitable, educational, or philanthropic institutions only relates to so much of the statute as requires licenses for lodging places. A dormitory appears to be simply a sleeping or lodging place and not an eating place.

Therefore, I conclude that there is no exception from license requirements for eating places operated by charitable, educational, or philanthropic institutions. This would also include schools that operate a school lunch program.

Therefore, the answer to your first question is yes, the Department is obligated to require a license from eating places operated by charitable, educational, or philanthropic institutions.

The second question is "May the Department legally issue a license for any of the said institutions without a fee until such time as such charitable, educational, or philanthropic institutions become accustomed to being inspected and comply with sanitary requirements?" Answer Chapter 25, Section 163 says "The Department is empowered to license eating and lodging places, recreational and overnight camps. Such licenses shall be issued by the Department under such terms and conditions as it deems advisable, and fees for licenses not exceeding \$10 may be charged. The fees thus received shall constitute a permanent fund to carry out the provisions of Sections 160 to 166, inclusive."

Under the provisions of this section the Department is required to issue licenses to eating and lodging places, recreational and overnight camps which are not excepted from license requirements under Section 164. The Department may issue such licenses under such terms and conditions as it deems advisable. The fees for licenses shall not exceed \$10. In other words, the Department may charge such license fee as it seems advisable up to the amount of \$10. No specific fee is set by statute, only a maximum limitation.

Inasmuch as the statute only sets a maximum amount beyond which the Department cannot charge for a fee, it is my opinion that the Department may legally issue licenses without charging fees.

I feel that this is a matter, however, which should be confined solely to school lunch programs and charitable, educational and philanthropic institutions which operate the eating facilities themselves primarily on a non-profit basis. It is my opinion that in those instances where a dining room is operated for profit and particularly by a concessionaire that such dining rooms or eating facilities should be licensed and pay the usual license fee charged to all eating places operated for a profit. I therefore feel that some of the places mentioned in the statement of facts such as summer schools, day schools and other similar places operated by private schools where profit is quite probably a necessary result of operating the entire school, that the regular license fee should be charged.

OCW:alb

