

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

the return is by way of merchandise rather than coin which may purchase merchandise. When defendants sold plaintiff's products at fair trade prices, and as part of the same transaction gave their customers cash register receipts having a redemption value of 2 1/2% of such fair trade prices, they, in effect, sold plaintiff's products at 2 1/2% less than the prices fixed. I can see no distinction between returning to the customer a credit memorandum of 2 1/2% and giving him a cash register receipt. And whether the discount is small or large makes no difference—the statute forbids both.' The force and logic of this reasoning impress us as unanswerable. We recognize that other courts have come to a different conclusion, but the reasoning on which their decisions are based does not persuade us. There is no magic in the words 'cash discount.' When subjected to analysis they are merely a euphemism for what is in reality a price cut."

We have considered cases both pro and con and have determined that the issuance of trading stamps does constitute a discount which is unlawful under the Maine State Milk Control Law.

THOMAS W. TAVENNER

Assistant Attorney General

December 7, 1961

To: Lawrence Stuart, Director of Park Commission

Re: Passenger Tramway Safety Board re Inspections of Ski Tows, etc.

We have your request for an opinion with regard to the effective date of the various provisions contained in the Act creating a Passenger Tramway Safety Board, Chapter 325, Public Laws 1961. As we understand the problem, the Board wishes an opinion as to when they must begin the performance of the various functions delegated to them under the terms of the above Act.

The declared policy of this Act is to protect the citizens and visitors of the State of Maine from unnecessary mechanical hazards in the operation of ski tows, etc., and to insure that reasonable design and construction are used. Because of this primary function there can be no lapse of diligent inspection. The problem is, of course, that the Board is empowered to make rules and regulations under section 7 of the Act and these rules and regulations can be made only after due consideration and then 14 days notice.

Quite clearly, these regulations will not be ready for use during the early part of the 1961-62 skiing season. It is the duty of the Board, nevertheless, to conduct inspections under section 9 in order to determine whether or not the construction and methods used by the various aerial tramway operators are sufficient to insure the safety of the public. This is a continuing duty and cannot be suspended. The Board must act immediately to set up some inspection system. As soon as reasonably possible thereafter, the Board should promulgate regulations and should create the forms necessary to enable the various operators to register under the provisions of sections 13 and 14.

THOMAS W. TAVENNER

Assistant Attorney General