

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

taken in Canadian waters and shipped into Maine for processing. It should be noted that the phrase "from the coastal waters of Maine" modifies the prohibitions contained in this section. For this reason, it is our opinion that Section 34 affects only those herring taken in the territorial waters of this State, and that therefore, herring caught in Canada are not subject to this section even though they might not be of the legal size.

THOMAS W. TAVENNER

Assistant Attorney General

January 17, 1962

To: Philip R. Gingrow, Examiner, Banks and Banking

Re: Issuance of Small Loan License to Superior Finance Co.

Reference is made to your memo of January 10, 1962. I am not going to recite the facts as contained in your memo.

You ask the question: "1. Did this act of incorporation become null and void at the end of 2 years because they had not obtained a license to engage in the business of making loans of \$2,500 or less?"

Answer: No. The mere failing to obtain a license to engage in the business of making the loans does not in and of itself constitute a failure to commence actual business. There are other facts which would be necessary to determine whether or not the particular finance company had commenced actual business within two years of September 12, 1959.

Question: "2. If your reply to question 1 is in the negative, should this Department issue the aforementioned license or must we have proof that they have commenced actual business under their charter in some other manner? What other actions by this corporation could we accept as proof of their having commenced actual business under their charter?"

Answer: I would not recommend the issuing of the license at the present time. You should have proved that they have commenced actual business in some other manner. You will note that under the purposes listed in their act of incorporation is the provision "to borrow money and secure the payment thereof by pledging its assets or any part thereof;" You should inquire into whether or not they have borrowed any money.

In addition to this, there are other facts which should be examined:

1. Has the corporation held legal directors or stockholders meetings?
2. Has the corporation regularly elected officers?
3. Has the corporation rented office space by lease or otherwise?
4. Has the corporation hired personnel, paid them wages, made Social Security reports and other reports necessary relative to hiring personnel?
5. Has the corporation regularly filed federal income tax returns?
6. Has the corporation purchased furniture, office equipment and other items necessary to the operation of an office or business?

It is not possible to say that any one of these items or any particular combination of these items would in and of themselves constitute the commencing of business, but an examination of the whole picture as to what this corporation has done since September 12, 1959, is necessary to determine whether or not it

has actually commenced business within two years from the above-mentioned date.

I would be glad to examine with you the information which you acquire relative to this corporation's activities since September 12, 1959 to determine whether or not it has commenced actual business under its charter.

GEORGE C. WEST

Deputy Attorney General

January 18, 1962

To: Frederick N. Allen, Chairman of Public Utilities Commission

Re: PUC Identification Plates for Interstate Motor Carriers

Reference is made to your memo of January 17, 1962. You have asked if the Public Utilities Commission can authorize the issuance of floater plates to an interstate carrier authorized to do business in Maine in lieu of the present distinguishing plates.

An examination of chapter 48 reveals that the answer to this problem is contained in sections 24 and 25 II.

Section 24 provides in part:

" . . . every person, firm or corporation transporting freight or merchandise for hire by motor vehicle . . . between points within and points without the state . . . is required to obtain a permit for such operation from the commission."

This section refers to interstate motor vehicle carriers and further provides that —

"such permits shall issue as a matter of right upon compliance with such regulations and payment of fees."

The two important matters in this section in relation to your question are:

1. The permit issues to the "person, firm or corporation," not to a vehicle or vehicles.

2. The "person, firm or corporation" must pay a fee.

Nothing is contained in this section concerning plates for individual vehicles.

We turn now to section 25 II which provides in part:

"Each application for a . . . permit shall be accompanied by a fee of \$25. . . ."

In the usual course of procedure the "person, firm or corporation" now has a permit upon payment of a \$25 fee. Reading further in section 25 II we find:

"Distinguishing plates . . . shall be prescribed and furnished by the commission for, and shall be displayed under rules to be prescribed by the commission at all times, on each motor vehicle, trailer and semi-trailer."

Thus we find that the commission, by its regulations shall:

1. Prescribe and furnish "distinguishing plates."
2. Provide for manner and method of display of such plates on "each motor vehicle, trailer and semi-trailer."