

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

for the cost of fire control up to 2% of the assessed valuation of that town. The State shall then reimburse the town for one half of this limited cost. This Section further provides that the State alone shall be responsible for all of the expense of fire control over and above the 2% town limit. This is the financial procedure set up by the Legislature. It applies without any reference to an emergency and constitutes a duty imposed on the towns of the state by the state legislature. This law cannot be modified by any agreement signed by department heads.

Revised Statutes, Chapter 12, Section 20, provides that a fund be established upon which the Governor can draw in case of emergency. Nowhere in this Chapter are the financial arrangements as set forth above altered or amended.

The agreement between the Civil Defense agency and the Forest Service purports to transfer the financial responsibility for fire control from the towns to the state in case of an emergency. Such a procedure is not specifically authorized under any of the provisions of Chapter 12, and is in direct contradiction to the provisions contained in Chapter 97. For this reason it is our opinion that the provisions of Chapter 97 are controlling and that the towns must share in the costs of fire control as outlined above, even though a state of emergency may have been declared to exist.

THOMAS W. TAVENNER

Assistant Attorney General

April 16, 1962

To: Captain Willard R. Orcutt, Maine State Police

Re: Inspection of Motor Vehicles—"Point of distribution."

Question: Should the point of distribution be construed to mean more than one point, if dealers are involved in buying the vehicle, and until the customer finally purchases the vehicle, or should it be construed to mean only the first dealer to purchase the vehicle and bring it to his place of business.

Answer: The point of distribution should be construed to mean more than one point, dependent upon the circumstances of each sale.

Chapter 22, section 45, provides in part:

"Every person who is the owner or in control of a motor vehicle registered and operated upon the highways of the State shall submit such vehicles for semiannual inspection as provided for in this section and sections 46 and 47. . . .

"Said inspection shall not apply to motor vehicles owned and registered in another state nor to new or used motor vehicles being driven by a dealer or holder of a transit registration certificate or their authorized representative from the point of distribution to his place of business.

"No dealer or holder of a transit registration certificate in new or used motor vehicles shall permit any such vehicle owned or controlled by him to be released for operation upon the highways until it has been inspected. . . ."

The problem which is raised concerns the meaning of the phrase "point of distribution" used in the second quoted paragraph above (4th paragraph of section 45).

The paragraph in which this phrase appears was in chapter 19, section 35 of the Revised Statutes 1944, and read:

"Said inspection shall not apply to motor vehicles owned and registered in another state provided proper proof is shown of an inspection of such motor vehicle within the period of 6 months prior thereto."

At that time most new cars came in by freight or overland carriers. Those coming by freight were towed to the garage. Then custom changed and some dealers went to some "point of distribution" and picked up new cars. They also bought new cars from other dealers and drove the new car to their garage. To cover this practice the legislature in 1951 (chapter 235, § 15) amended this law to read as follows:

"Said inspection shall not apply to motor vehicles owned and registered in another state nor to new motor vehicles being driven by a dealer or his authorized representative from the point of distribution to his place of business."

In the meantime, the so-called used car business blossomed forth. Instead of new car dealers depending on individuals buying all their used cars they now wholesaled them to used car dealers. Also, used car dealers wholesaled used cars to other used car dealers. This meant the moving of several used cars from one dealer to another. These cars are sold on an "as is" basis with no repairs being made and the buying dealer intending to make necessary repairs before selling to individuals. Many times these cars remained in a dealer's lot beyond the time for the next inspection. This created a problem to the dealers, both of used and new cars. In 1955 the legislature authorized the issuance of the "transit registration certificate."

Consequently, in 1957 this paragraph was amended to read as it does now. The scrivener of the amendment used the easy way out and simply inserted the words "or used" and "or holder of a transit registration certificate." It is obvious that no thought or consideration was given to the succeeding paragraph except to add the words "or holder of a transit registration certificate" into it. No thought was given to the changed meaning, or if the meaning was changed, or if the new amendment could be reasonably interpreted.

We must look at the whole law in order to learn the intent of the legislature. In so doing it must become obvious that the legislature intended to treat used motor vehicles the same as new motor vehicles. Even before the 1957 amendment there was no single "point of distribution" for new cars in the state. There is none today. So it is with used cars.

Therefore, we must conclude that the legislature intended that a motor vehicle dealer, in either new or used motor vehicles, could move motor vehicles, purchased by him for resale, to his place of business from the place of purchase without first having the vehicle inspected.

GEORGE C. WEST

Deputy Attorney General