

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

to notify Universal Listing as soon as the seller gives an "exclusive" listing to any other broker. It would appear that Universal Listing, Inc. is acting as more than a mere printing house. It is, in effect, the link between the seller and the broker. As such, this corporation is engaged in a business which by definition constitutes the work of a real estate broker. This corporation should, therefore, be licensed and if such license is not procured, will be subject to the penalties provided for in section 12, chapter 84.

THOMAS W. TAVENNER

Assistant Attorney General

August 28, 1962

To: Maynard F. Marsh, Chief Warden, Inland Fisheries & Game

Re: Wild Turkeys

In your memo of August 23, 1962 you ask if wild turkeys are protected by the present Fish and Game laws.

The answer is Yes.

In 1955 the legislature passed section 85-A of chapter 37 which would have provided a 15-day open season on wild turkeys beginning on October 13, 1960. Then in 1959 the legislature repealed this law. At the same time section 88 of chapter 37 was amended by adding the words "hunt, kill or" in the first sentence. This section reads in part:

"No person shall hunt, kill or have in his possession, living or dead, any wild bird other than a game bird or a migratory game bird. . . . and for the purpose of this chapter the partridge, grouse and pheasant, only, shall be considered game birds, and the following, only, shall be considered migratory game birds:" (There follows a long list which does not include wild turkeys.)

It is evident that a person may only hunt, kill or have in his possession game birds or migratory game birds, under certain conditions stated in this or other sections.

The prohibition against hunting, killing or having in possession "wild birds" applies to wild turkeys.

GEORGE C. WEST

Deputy Attorney General

August 30, 1962

To: R. W. Macdonald, Chief Engineer, Water Improvement Commission

Re: Waste Discharge to Kennebunk River at Kennebunkport

We have your request of August 16th for an opinion with regard to the discharge of sanitary sewage from a motel of 20 units into the tidal estuary of the Kennebunk River at Kennebunkport.

We understand your question to be whether or not this motel can utilize the existing and grandfathered discharge line from a nearby building to gain entrance

into the estuary. We understand that such a course of action would result in a violation of the classification of this tidal estuary. Revised Statutes, chapter 79, section 4, provides that —

“ . . . it shall be unlawful for any person, corporation, municipality or other legal entity to dispose of any sewage, industrial or other waste, either alone or in conjunction with another or others, in such manner as will lower the quality of the said waters, tidal flats, or section thereof, below the minimum requirements of such classification, and notwithstanding any licenses which may have been granted or issued under sections 8, 9, and 10 hereof.”

It is our opinion that any person who is responsible for adding sewage to a classified water, which sewage violates the classification thereof, infringes upon the provisions of section 4. The manner in which the sewage in question is disposed of in no way alters the fact of violation. The owner of the motel in question, if he carries through the plan outlined in your memo, will be guilty of a violation of section 4 and his actions taken in this connection can be enjoined under the provisions of Revised Statutes, chapter 79, section 12.

THOMAS W. TAVENNER

Assistant Attorney General

August 30, 1962

To: R. W. Macdonald, Chief Engineer, Water Improvement Commission

Re: Laundry and Laundramat Waste

We have your request of August 14th for an opinion with regard to the following question:

“Should a laundry or laundramat undertaking operation at a site provided with a domestic or sanitary sewer alone acquire a waste discharge license before proceeding?”

Revised Statutes, chapter 79, section 8, provides that no person, firm or corporation shall add any pollution to any natural body of water without first obtaining a license from the Commission. This law covers all sources of pollution whether industrial or domestic and prohibits any person from adding pollution to a natural body of water. It does not, however, affect a polluter whose effluent enters an existing sewer or other disposal system prior to entrance into the body of water.

It is our opinion that no license can be required of any person whose pollution empties into a municipal sewer or other man made water course rather than directly into a natural water course.

THOMAS W. TAVENNER

Assistant Attorney General

September 7, 1962

To: Kermit Nickerson, Deputy Commissioner of Education

Re: Authority to Inspect an Academy

You have inquired whether or not the State Board of Education and the