

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

October 25, 1962

To: E. L. Newdick, Chairman, Milk Commission

Re: Blend Price Paid to Milk Producers

The minimum price which must be paid by a Maine dealer to a Maine producer for milk handled within the State is based upon the dealer's Class 1 and Class 2 usage during a given period. This combination is called the blend price. Class 1 milk (whole fluid milk) costs the dealer more than Class 2 milk.

Under the current practice when a dealer buys milk from another dealer, the purchasing dealer may treat his purchase as Class 2 usage in computing his blend price and deduct the amount of the purchase from his Class 1 sales. This is done regardless of the ultimate use of the milk. The effect of this practice is to decrease the blend price paid to the purchasing dealer's producers. You would like to know whether the commission may lawfully prevent this practice.

As provided by Revised Statutes, chapter 33, section 4, the Milk Commission has the power to establish and change "after investigation and public hearing, the minimum prices to be paid to producers by dealers for milk received, stored, manufactured, processed, sold, distributed or otherwise handled within the state." Because the blend price is the minimum which can be paid to producers, the Commission has the power to regulate those factors affecting the blend price. The method of reducing the Class 1 usage by the amount of the purchase from another dealer is potentially destructive of the whole pricing structure. Under the authority to establish and change the minimum price paid to producers, the commission may prevent the reduction in Class 1 usage currently occurring, regardless of whether the purchases were from a Maine dealer or out-of-state dealer. A regulation prohibiting the reduction of the Class 1 price by a purchase of milk from an out-of-state dealer would not be viewed as an unlawful regulation of interstate commerce.

PETER G. RICH

Assistant Attorney General

October 26, 1962

Arlyn E. Barnard, Chairman
Maine Highway Safety Committee
218 Middle Street
Portland, Maine

Dear Mr. Barnard:

This will acknowledge receipt of your letter of October 16th inquiring whether the Speed Regulation Board has authority to post separate car-truck speeds.

Revised Statutes, chapter 22, section 113, sets the maximum speeds which are permissible "unless otherwise posted." Subsection F-1 provides "speed of commercial vehicles, registered for over 6,000 pounds, shall be the same as for pleasure vehicles."

Section 113-B provides that the State Highway Commission, Secretary of

State, and the Chief of the State Police acting jointly have authority to restrict the speed of all motor vehicles and to increase the speed of all motor vehicles up to a certain stated limit.

This Board, which is commonly referred to as the Speed Regulation Board, can have no more authority than that granted to it by the legislature. It cannot increase speeds above the limits set by the legislature.

In view of the provision of section 113-F-1, providing that speed of certain commercial vehicles shall be the same as pleasure vehicles, and the fact that the Speed Regulation Board has no definite authority to alter speed limits of various types of motor vehicles, it must follow that the Board cannot set separate speed limits for pleasure vehicles, trucks or buses.

Very truly yours,

GEORGE C. WEST

Deputy Attorney General

October 31, 1962

To: Hayden L. V. Anderson, Executive Director, Division of Professional Services,
Department of Education

Re: Bequests to Teachers Colleges

You have asked for our informal opinion relative to an inquiry by Attorney William Linnell concerning the naming of a teachers college or the president of a teachers college trustee for the purpose of administering scholarship grants or other educational bequests or gifts. The authority for accepting such a bequest or gift is contained in chapter 11, section 16 of the Revised Statutes. It is our understanding that under that section the bequest would be turned over to the Treasurer of the State of Maine with the interest applied under the terms of the trust.

I agree with Mr. Linnell that it is highly questionable to make a bequest in trust directly to a teachers college or to a president of a teachers college since there is no clear statutory authority for such a bequest to an agency of the State. I would suggest that we survey the situation and recommend an amendment to chapter 11, section 16, to permit the various agencies of the state to administer a particular bequest in trust.

RICHARD A. FOLEY

Assistant Attorney General

October 31, 1962

To: Joseph T. Edgar, Deputy Secretary of State

Re: Eligibility to Vote Absentee Ballot when in County Jail or Penal Institution

You have asked our opinion as to the eligibility of a registered voter to vote by absentee ballot when that voter is in the county jail on a capias writ for non-support.