

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

November 2, 1962

To: Major Parker F. Hennessey, Maine State Police

Re: Motor Vehicle Inspection "Released for Operation upon the Highways"

You have asked whether it is necessary for an automobile dealer to remove the current inspection sticker from a car which he has taken in trade prior to road testing the vehicle to determine the necessary repairs and adjustments. The pertinent statute is Revised Statutes, chapter 22, section 45, which states:

"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 and a proper sticker certifying such inspection placed thereon. If such vehicle bears thereon a certificate showing a prior inspection, the same shall be removed."

When the legislature used the language "released for operation upon the highways" the intention was not that the dealer would have to remove the sticker and inspect the vehicle before taking it upon the road in order to perform additional necessary and proper tests. Rather, the inspection sticker must be replaced prior to demonstration and sale to the customer. In answer to your question, the dealer does not have to remove the current sticker before the vehicle is taken upon the roads for testing.

PETER G. RICH

Assistant Attorney General

November 5, 1962

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Copyright Laws in Relation to Television Programs

You have inquired as to the law on the use of excerpts from copyrighted books on educational television programs. I will quote for you a commentary found in *Corpus Juris Secundum*, Volume 18, page 224:

"§ 105. — *Extracts and Quotations*

"Reasonable use of extracts or quotations from copyrighted works for a proper purpose is not an infringement.

"Making extracts, even if they are not acknowledged as such, appearing under all the circumstances of the case, reasonable in quality, number, and length, regard being had to the object with which the extracts are made and to the subjects to which they relate, is a fair and noninfringing use. Thus, it is not necessarily piracy for a reviewer or commentator to make use of extracts or quotations from a copyrighted work for the purpose of fair exposition or reasonable criticism, and considerable license is allowed in such cases, but it is illegitimate to publish extracts to such an extent that the publication may serve as a more or less complete substitute for the work from which they are borrowed, as excessive quotation is an infringement. If so much is taken that the value of the original is sensibly diminished, or the labors of the author

are substantially or to an injurious extent appropriated, that is sufficient in law to constitute a piracy.”

I believe this quotation answers your question relative to copyright law.

RICHARD A. FOLEY

Assistant Attorney General

November 6, 1962

To: Austin H. Wilkins, Commissioner of Forestry

Re: Deputizing Filling Station Operator to Check Christmas Tree Shipments

This is in answer to your memorandum inquiring whether or not deputy fire wardens appointed under the provisions of chapter 36, section 103, may enforce the provisions of the Christmas Tree Law, so-called, that is chapter 36, section 67-A through 67-J, inclusive. Under section 67-I of the Christmas Tree Law state forestry department personnel may make inspections, investigations and arrests for violations of the Christmas Tree Law.

It is clear that under chapter 36, section 103, deputy fire wardens are state forestry department personnel.

The answer to your memorandum is therefore that a deputy fire warden may enforce the Christmas Tree Law when so assigned by the Commissioner of Forestry.

RICHARD A. FOLEY

Assistant Attorney General

November 8, 1962

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

Re: Application of so-called Artificial Light Law to Closed Season on Deer

You have asked if the law relative to use of artificial lights applies (1) to an area permanently closed to deer hunting and (2) to an area closed to deer hunting even though the season may be open in another part of the State.

This law does not apply in each case. Revised Statutes of 1954, chapter 37, section 97-A, reads:

“The use of artificial lights between 1/2 hour after sunset and 1/2 hour before sunrise to illuminate, jack, locate, attempt to locate or show up wild birds or animals shall be unlawful *during open season on deer*, except as provided in section 94, and section 113, subsection IV.” (Emphasis supplied).

You will note that the use of artificial lights for certain purposes is prohibited “during open season on deer.” The phrase “open season” has a definite meaning in the statute. Section 38 provides —

“The words ‘open season’ mean the time during which it shall be lawful to take animals, birds and fish as specified and limited by law.”

Hence, an “open season on deer” is that time during the year when deer may legally be taken in any designated area. Section 91 sets forth the “open season on deer.” This section also provides —