

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

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 —

“There shall be a continual closed season on deer on the Island of Mount Desert. . . ”

A reading of the whole section reveals that the “open season on deer” is a staggered time, according to certain zones or areas in the States.

Section 97-A only applies “during open season on deer” so it cannot apply to times and areas when or where it is not “open season on deer.”

GEORGE C. WEST

Deputy Attorney General

November 8, 1962

To: Maine Sardine Council

Re: Purchase of Maine Sardines by Council for Sale in Foreign Market

You made an oral request for an opinion as to whether or not it is legal for the Maine Sardine Council to use its funds to buy sardines from packers in Maine to sell at a loss in foreign markets to promote Maine sardines in such markets.

After a careful study of the law this office is of the opinion that such a plan is not legal under the present law. Such action would not be “merchandising and advertising” Maine sardines, being a purpose for which the sardine tax money may be used.

It will be necessary to amend chapter 16, section 267, in order to do what you have suggested.

GEORGE C. WEST

Deputy Attorney General

November 8, 1962

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

Re: License to Discharge Sewage into or near Sebago Lake

You have asked two questions regarding the licensing of sewage discharge into or in the vicinity of a body of water of an “A” classification.

Question 1. May the Water Improvement Commission lawfully license the discharge of fully treated sewage directly into Sebago Lake? This lake, the water supply of the city of Portland, has an “A” classification.

Answer: The law is that “there shall be no discharge of sewage or other wastes into water of this (‘A’) classification.” R. S., chapter 79, section 2. There is a great possibility of harm to those who depend upon waters of the “A” classification for their drinking supply in the event of failure (accidental or otherwise) to adequately treat the sewage. There is no differentiation in the law between treated and untreated sewage. Therefore, you may not license the discharge of sewage directly into Sebago Lake.

Question 2. May the Water Improvement Commission lawfully license the discharge of fully treated sewage into a wet weather water course having a “B-2”