

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)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

April 24, 1983

George F. Mahoney, Insurance Commissioner and
Joseph P. Flynn, Director of Div. of Fire Prevention

Insurance

Albert E. Guy, Ass't Attorney General

Insurance

Legal Opinion -- Motor Vehicle Racing (Gymkhana)

Facts: A certain motor vehicle contest known as a gymkhana has now become a well known automobile contest.

In such a contest each car with one driver runs individually over an obstacle course to determine a winner and runner-ups. The winner is selected on a combination of points for skill and ability and the time which the operator used to go over the course, which, of course, necessarily relates to the speed he is able to attain.

There is often an entry fee for each operator and usually a cup or other trophy as a prize to the winner, sometimes to the runners-up. Usually there are spectators to these events although it is not always paid attendance. The contest is usually held on a hard packed beach or abandoned airport. Usually the contest is sponsored by a local group, almost always a sports car club. This is generally regarded as more of a contest of skill rather than of speed although the driver must exhilarate his car to the maximum speed attainable between the obstacle he is leaving and the next obstacle he is to overcome. The obstacles are generally parking, backing, evading a series of poles such as often done in skiing, etc. The highest speed obtained generally would not exceed thirty miles an hour but this is the maximum speed attainable in the distances allotted. The vehicles in use are almost always without exception in excellent condition and are valued from \$3500 to \$7500. They are standard type sport cars and are used extensively on the highway as any other type of automobile. The question is as follows:

"Must the operator of a gymkhana obtain a license to operate motor vehicle racing as provided in Chapter 100, Section 60, Revised Statutes of Maine, 1954, as amended?"

A review of law of the state of Maine indicates that the question is novel here. A review of law in other jurisdictions indicates little regulation in areas except where the public has no right or privilege of access, such as a public highway, and therefore the question must be answered without extensive resort to case law.

Websters new Collegiate Dictionary defines a race as a "contest of speed". The contest in question is a combination of speed and skill. Websters new Collegiate Dictionary also defines the word gymkhana as "a meeting for athletic contests, mainly racing."

Therefore, based on the words in use it would appear that a gymkhana is an automobile race. It is to be noted further that there are spectators and that Section 60 of Chapter 100 Revised Statutes of Maine was designed primarily for the protection of spectators "during any type of motor vehicle racing". That the vehicles in use are motor vehicles, there can be no question.

The case of Jarrell v. Harrisburg Fair 215 Ill. App. 273 defines a race as "an exhibition upon grounds in its possession to which it charges an admission, which has offered a prize for a speed and endurance contest between automobiles upon a track of its grounds". In the gymkhana the sponsorship is usually an automobile association, which is sponsoring

#1

an exhibition upon grounds in its possession, however temporary, to which it may or may not charge an admission. The association does however offer a prize for a speed and skill contest between automobiles within the rules and regulations defined and set up by the association for the particular meet.

It is to be noted from a reading of Section 60 of Chapter 100 that the license to operate motor vehicle racing is a license to the operator and not necessarily to the owner of the property.

It is therefore concluded that a gymkhana is "motor vehicle racing" and that track owners and race operators must comply with all licensing requirements of Section 60, Chapter 100 as well as with the rules and regulations adopted pursuant to this section.

Respectfully submitted:

/s/ Albert E. Guy
Albert E. Guy
Ass't Attorney General