

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

- (1) The subsequent meeting held for the purpose of reconsideration is seasonably done; or,
- (2) Such prior action has not accomplished its intended purpose or result; or,
- (3) The rights of third parties or other intervening rights will not be impaired by such subsequent meeting.

Because no district was formed due to the failure of one of the towns to affirm formation, a second meeting seasonably held in that town would be proper for the reason that there has occurred neither an impairment of intervening rights nor the accomplishment of an intended purpose; no district having been formed with attending rights and obligations.

Those municipalities which have already approved formation need not vote again on that question. Additional action would add nothing to the vote presently existing in those towns.

JOHN W. BENOIT

Assistant Attorney General

May 27, 1963

To: E. L. Newdick, Commissioner of Agriculture

Re: Fertilizer

We are in receipt of your request for an opinion as to the interpretation of Chapter 48, Section 29, paragraph I, subsection I, R. S. 1954, which states:

"I. Of any independent contractor while engaged exclusively in the transportation of seed, feed, fertilizer and livestock for one or more owners or operators of farms directly from the place of purchase of said seed, feed, fertilizer and livestock by said owners or operators of said farms to said farms, or in the transportation of agricultural products for one or more owners or operators of farms directly from the farm on which said agricultural products were grown to place of storage or place of shipment within 60 miles by highway of said farm."

You specifically ask whether "lime, when hauled to farms, would properly be classed as a 'fertilizer' within the meaning of the statute."

We answer your question in the affirmative. Webster's dictionary defines fertilizer as "a fertilizing *agent* or substance, especially a manure for land, as guano, superphosphate, etc." (Emphasis added.) It would appear, therefore, that anything that acts as a "fertilizing agent" would properly be classified as fertilizer, if actually intended for use as fertilizer. In conjunction with the above, Dr. Roland A. Struchtemeyer, Head of the Department of Agronomy at the University of Maine, writes:

"I, personally, visualize the role of limestone as being two-fold. By this I mean that limestone is added to the soil to change the acidity, or pH of the soil. When the pH of the soil is changed the effectiveness of the other fertilizer materials are increased and the biological activity in the soil is stepped up. These changes usually result in an increased plant growth.

"The second role, and one not generally appreciated, is that of supplying the plants with calcium and magnesium. These two elements are essential for plant growth and we visualize that calcium generally, and magnesium when dolomitic limestone is used, are provided to the plant through the use of lime. On this basis, the material certainly has some fertility value.

"Technically speaking, any material added to the soil for the purpose of providing plant food is a fertilizer."

Your attention is also called to Chapter 32, Section 215-C, subsection I, R. S. 1954, as amended, the Maine Commercial Fertilizer Law. Under Section 215-C, subsection I, lime is defined thusly:

"I. The term 'agricultural lime' means any substance that contains calcium or magnesium intended or sold for *fertilizing purposes* or for neutralizing soil acidity, and shall include gypsum if intended for agricultural use." (Emphasis added).

In the same section (215-C) the following definitions are also found.

"IV. The term 'commercial fertilizer' includes mixed fertilizer or fertilizer materials or both.

"VII. The term 'fertilizer material' means any substance containing nitrogen, phosphorus, potassium or any recognized *plant nutrient element* or compound which is used primarily for its plant nutrient content. . . ." (Emphasis added).

In conclusion, there is little doubt that lime is fertilizer, if intended for use in the soil, within the meaning of Chapter 48, Section 29-I, subsection I.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

May 27, 1963

To: Honorable William R. Cole
Senate Chamber
Augusta, Maine

Dear Senator Cole:

Re: L. D. 1253 — An Act Relating to Weight of Commercial Vehicles

The question asked concerning this Legislative Document may be phrased as follows:

May a truck carry more than the maximum limit set by section 109 without penalty?

Section 111 sets the penalties for violation of section 109, which in turn sets a schedule of maximum allowable weights.

The third paragraph of section 11 provides in part:

"\$20 and costs of court when the gross weight is in excess of the limits prescribed in section 109, provided such excess is intentional and is 1,000 pounds or over but less than 2,000 pounds, and the above provision as to intent shall apply only to such excess as is less than 2,000 pounds."