

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

The words "municipal officers" and "municipal officials" for the purposes of R. S., c. 41, § 111-J-1, are synonymous.

Respectfully yours,

JOHN W. BENOIT

Assistant Attorney General

October 18, 1963

To: Kermit N. Nickerson, Deputy Commissioner of Education

Re: Conveyance Contracts in School Administrative Districts

Your memorandum of September 16, 1963 is acknowledged.

Facts:

On September 12, 1947, Ralph W. Farris, Attorney General, forwarded a legal opinion to your department which stated that towns were authorized to purchase school buses on a conditional sales contract basis financed over a three-year period pursuant to Section 8 of Chapter 37, R. S. (now § 14, c. 41, R. S., as amended).

Presently, R. S., c. 41, § 111-N contains language similar to the language existing in c. 37, § 8, R. S. when Attorney General Farris wrote the aforementioned opinion; and the only difference in substance is that the former section referred to towns while the latter section refers to school administrative districts.

Question:

Whether the principle expressed in the September 12, 1947 opinion applies to school administrative districts?

Answer:

Yes.

Reason:

Because of the similarity of c. 41, § 111-N, R. S., as amended, to the law which was before Attorney General Farris in 1947 (c. 37, § 8, R. S.) when he wrote the opinion already mentioned, we incorporate the principle expressed therein as being applicable to school administrative districts.

JOHN W. BENOIT

Assistant Attorney General

October 25, 1963

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

Re: Industrial Wastes

Facts:

The Water Improvement Commission is continually running into the insistence that a municipality building a treatment plant must consider the fact that they can be obliged to admit to the system, even though the system was designed for sanitary sewage alone, industrial waste irrespective of whether amenable to the process designed for sanitary waste and regardless

of the fact that plant capacity might be such that the municipal plant would be overloaded.

Question :

Can a sewer district be forced to accept into a sewer system, for treatment, an industrial waste compatible or not with the present system of treatment?

Answer :

No.

Opinion :

Chapter 96, Section 128-150, R. S. 1954, as amended, deals with domestic sewage and does not contemplate industrial waste. Specifically, Section 133 dictates the procedures that shall be used for acceptance into a municipal sewer system. It is our opinion that industrial waste is not contemplated, and is therefore excluded.

We feel compelled to point out, however, that this is still an open question and at some future time it may be the basis of litigation on the part of one or more industrial plants.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

October 29, 1963

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

Re: Concealed Weapon Permits

Facts:

On occasions a person is found with a loaded rifle or shotgun in his motor vehicle or trailer. The person claims a legal right to have such a loaded rifle or shotgun in his motor vehicle or trailer because he has a permit from his local chief of police to carry a concealed weapon.

Question :

In accordance with chapter 37, section 78, is it lawful for the holder of a concealed weapon permit to have a loaded rifle or shotgun in a motor vehicle?

Answer :

No.

Opinion :

The 3rd sentence of chapter 37, section 78 reads:

"It shall be unlawful for any person, excepting a law enforcement officer while in the line of duty, to have in or on a motor vehicle or trailer any rifle or shotgun with a cartridge or shell in the chamber, magazine, clip or cylinder."

No wording can be any clearer or less ambiguous than that sentence. No one may have in or on a motor vehicle or trailer a loaded rifle or shotgun, except a law enforcement officer while in the line of duty.

The 4th sentence of the same section says:

"No person, except a law enforcement officer in the line of duty or a person having a valid permit to carry a concealed weapon, may have in or on any motor vehicle or trailer any loaded pistol or revolver."