

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

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."

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 pistol or revolver, except a law enforcement officer in the line of duty or a person having a valid permit to carry a concealed weapon.

When the two sentences are read together they clearly show a distinction between a loaded rifle or shotgun and a loaded pistol or revolver. A valid permit to carry a concealed weapon is not a defense to having a loaded rifle or shotgun in or on a motor vehicle or trailer. A valid permit to carry a concealed weapon is a defense to having a loaded pistol or revolver in or on a motor vehicle or trailer.

See opinion of Attorney General dated October 30, 1945, to the effect that the former provision applied to any time of the year. The application of this section is not confined to the hunting season.

GEORGE C. WEST

Deputy Attorney General

October 29, 1963

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

Re: Definition of Paraplegic in Fish and Game Laws

Facts:

Under chapter 37, section 78, paraplegics may hunt from motor vehicles which remain stationary.

Question:

Is an amputee a paraplegic?

Answer:

Not necessarily.

Opinion:

R. S. chapter 37, section 78, second paragraph reads:

"Notwithstanding the provisions of this section, paraplegics may hunt from motor vehicles which remain stationary."

(The above paragraph was enacted by P. L. 1959, c. 333, § 8.)

Webster's Third New International Dictionary (1961) defines a paraplegic as "an individual affected with paraplegia." The same dictionary defines paraplegia as "paralysis of the lower half of the body with involvement of both legs usually due to disease of or injury to the spinal cord."

The words amputee and paraplegic are not synonymous. An amputee may, under certain conditions, be a paraplegic but not always. Only an amputee who has lost his legs because of paraplegia is a paraplegic.

It should be noted that R. S. 22, relating to motor vehicles, has had several provisions relating to a "veteran who has lost both legs or the use of both legs" and "any amputee veteran." (Section 13.) Also, "any amputee veteran," (Section 60.) It is obvious that the Legislature has made a distinction between an "amputee" and a "paraplegic."

Hence, it follows that the word "paraplegic" as used in Revised Statutes, chapter 37, section 78, does not include all "amputees."

GEORGE C. WEST

Deputy Attorney General