

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

March 24, 1964

To: Captain R. E. Staples, State Police

Re: Weight violations by dump trucks, tractor dump trucks and transit-mix concrete trucks.

Facts:

The 101st Legislature amended Revised Statutes, c. 22, § 111-A by adding the words "or dump trucks, tractor dump trucks or transit-mix concrete trucks carrying highway construction materials" in the first sentence. A question has arisen concerning the interpretation of this new provision. Question:

Does section 111-A require that highway construction materials be transported to a highway project for the granted tolerance to be effective?

Answer:

No.

Opinion:

It is necessary to ascertain legislative intent. That is the basis for proper interpretation of statutes. In this particular case the legislative history of the 1963 amendment shows clearly the intent of the legislature.

The amendment to Revised Statutes, c. 22, § 111-A, was introduced in Legislative Document No. 895, "An Act Relating to Weight Tolerances of Vehicles Loaded with Construction Materials." It read, in the pertinent part:

"The operation on the highways of any vehicle loaded entirely with firewood, pulpwood, logs, ~~or~~ bolts or *construction materials* shall not, etc."

This Legislative Document was referred to the Committee on Highways. That Committee reported the bill out in a New Draft, Legislative Document No. 1558, with the following wording:

"The operation on the highways of any vehicle loaded entirely with firewood, pulpwood, logs or bolts *and highway construction materials carried in dump trucks, tractor dump trucks or transit-mix concrete trucks* shall not, etc."

On the floor of the House another amendment was offered, being House Amendment "A." This amendment was accepted and became the language finally passed as P. L. 1963, chapter 313:

"The operation on the highways of any vehicle loaded entirely with firewood, pulpwood, logs or bolts *or dump trucks, tractor dump trucks or transit-mix concrete trucks carrying highway construction materials* shall not, etc."

Thus, we see the whole picture of what happened in the legislature concerning this statute. Incidentally, it should be noted that the title of the bill was never changed. This fact is conclusive of nothing, but is noted as possibly reflecting legislative thinking, in the drafting.

Clearly, the initial bill sought to expand the materials eligible for weight tolerance when loaded on "any vehicle." Had the bill as introduced been accepted then "construction materials" loaded on "any vehicle" would have been eligible for the 10% tolerance. This would have been consistent with the latter portion of section 109 wherein it speaks of "3-axle trucks with brakes on the wheels of all axles hauling *construction materials . . .*"

However, the legislature was not willing to grant the weight tolerance to "any vehicle" loaded with "*construction materials*." The legislature limited the tolerance to "*dump trucks, tractor dump trucks or transit-mix concrete trucks carrying highway construction materials*."

The place to which these "*highway construction materials*" are being carried is of no importance. If one of the three named types of truck is carrying "*highway construction materials*" it is entitled to the tolerance stated in section 111-A.

See section 16, III-B, fifth and seventh paragraphs for wording showing legislative intent as to place of operation.

GEORGE C. WEST

Deputy Attorney General

March 25, 1964

To: Colonel Robert Marx, Chief of State Police

Re: Possession of New Hampshire Sweepstakes Acknowledgment of Purchase

Facts:

The State of New Hampshire has legalized a sweepstakes based upon the outcome of a certain horse race. All tickets must be purchased in the State of New Hampshire. The purchaser fills out a form contained in a machine, with his name and address. He receives from the machine a piece of paper with his name and address as he printed it on the original. Below the purchaser's name and address appears the following statement:

"This is only an acknowledgment of purchase. It need not be retained or presented for payment. Prizes will be awarded on the basis of the name and address on each winning sweepstakes ticket in possession of New Hampshire Sweepstakes Commission."

Question:

Does the possession of such a receipt constitute any breach of Maine law?

Answer:

No.

Opinion:

The statute involved is Revised Statutes, ch. 139, § 18, the pertinent part of which reads as follows:

"Every lottery . . . is prohibited; and whoever is concerned therein, directly or indirectly, by making, writing, printing, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of or *having in possession with intent to sell or dispose of, any ticket, certificate, share or interest therein, slip, bill, token or other device purporting or designed to guarantee or assure to any person or to entitle any person to a chance of drawing or obtaining any prize or thing of value to be drawn in any lottery, policy, policy lottery, policy shop, scheme or device of chance of whatever name or description;*"