

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

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;*"

The above-quoted portion must be read with the supplied emphasis. It is most important to the answer of the proposed question.

Any ticket, certificate, slip, bill or token must purport or be designed to guarantee or assure the holder a chance of drawing or obtaining a prize drawn in a lottery. It must be admitted that the New Hampshire Sweepstakes is a lottery. But does the paper possessed by the purchaser of a chance purport to, or is it designed to, guarantee or assure the holder of a chance of obtaining a prize?

The wording on the paper is self-explanatory. It is a mere acknowledgment of purchase and "need not be retained or presented for payment." The New Hampshire Sweepstakes Commission holds possession of all sweepstakes tickets.

Therefore, the mere possession of a New Hampshire Sweepstake acknowledgment, receipt (or whatever it may be denominated) does not constitute a breach of Maine law.

FRANK E. HANCOCK
Attorney General

March 27, 1964

To: Governor John H. Reed

Re: Appointment, Motor Vehicle Dealer Registration Board.

You have asked about the legality of appointing a certain individual to the Motor Vehicle Dealer Registration Board.

The Board is composed of "5 members, 2 of whom shall be new motor vehicle dealers, 2 of whom shall be used motor vehicle dealers and one of whom shall be a person other than a motor vehicle dealer." *Ch. 22, § 21.*

There is a vacancy to be filled by a "used motor vehicle dealer." The person in question is President and a Director of a Maine corporation having a new car franchise. He is also Treasurer and a Director of a Maine corporation selling used cars exclusively. This information is obtained from the corporation records of the Secretary of State's office.

The legislative intent is easily ascertainable to be that of an equal number of persons representing new car and used car dealers with a non-dealer holding the balance. To allow an executive officer of two corporations, one selling new cars and one selling used cars, to be appointed would create an unbalanced board. Such a person would be trying to serve two masters which is bad.

Such a person is not eligible for appointment to the Maine Motor Vehicle Dealer Registration Board.

GEORGE C. WEST
Deputy Attorney General

April 2, 1964

To: Marion E. Martin, Commissioner, Labor and Industry

Re: Power and Duty of Board of Construction Safety Rules and Regulations to Adopt Rule