

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

cretionary retirement age of 60, at which age the member "may retire at any time then or thereafter"; and a mandatory retirement age of 70, at which age the member "shall be retired forthwith" (with exceptions enumerated therein).

The Maine State Retirement System is a statutory directive of our Legislature (P. L. 1955, c. 417, § 1) which must be considered as having pre-empted the field of retirement. The Laws of the State of Maine are paramount; and the regulations of the State Board of Education must not be inconsistent therewith.

This Office has rendered earlier opinions of the same tenor; January 25, 1952, and April 9, 1964 (Superintending school committees' regulations re compulsory retirement prior to age seventy).

JOHN W. BENOIT

Assistant Attorney General

May 19, 1964

To: Stanton S. Weed, Director of Motor Vehicle Department

Re: Trailer — Purview of definition

Facts:

A commercial fisherman collects sea moss and sells the moss to businesses that use the moss to pack lobsters and other sea foods. In the course of his business the commercial fisherman intends to store and transport moss or other property in a 1948 Chevrolet chassis which has had its engine and seats removed and which chassis will be towed by a truck by means of a tow bar.

Question No. 1:

Does a chassis as so described and utilized for the purpose of storage and transportation in the course of a business, come within the meaning and intent of a "trailer" as defined in R. S. 1954, c. 22, § 1?

Answer No. 1:

Yes.

Opinion No. 1:

R. S. 1954, c. 22, § 1 defines trailer as follows:

"'Trailer' shall mean any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, not operated on tracks, and so constructed that no part of its weight rests upon the towing vehicle;"

The definition requires a trailer must be a vehicle. A vehicle is defined by R. S. 1954, c. 22, § 1 as follows:

"'Vehicle' shall include all kinds of conveyance on ways for persons and for property, except those propelled or drawn by human power or used exclusively on tracks;"

A 1948 Chevrolet chassis used for carrying sea moss and towed by a truck on ways would be a conveyance on ways for property propelled or drawn by some means other than by human power and the conveyance would not be used exclusively on tracks. It must follow that such a chassis would be a vehicle.

There are five criteria that must be met before a vehicle can be classified as a trailer, to wit:

1. The vehicle must be without motive power.
2. The vehicle must be designed for carrying persons or property.
3. The vehicle must be designed for being drawn by a motor vehicle.
4. The vehicle must not be operated on tracks.
5. The vehicle must be so constructed that no part of its weight rests upon the towing part of the vehicle.

The first criterion is met in that the motor has been removed from a 1948 Chevrolet and there has not been placed within the chassis any other motive power.

The second criterion is satisfied in that the vehicle is designed to carry sea moss. A design to carry property is manifested by the removal of the seats from the vehicle with the expressed intention of the removal to make room for sea moss that is to be transported.

The third criterion is met by a modification of the chassis which will allow a truck to tow the vehicle by means of a tow bar. It is assumed in this opinion that a modification has been made to permit towing. The word "designed" has been defined as follows:

"Designed. Contrived or taken to be employed for a particular purpose. People v. Dorrington, 221 Mich. 571, 191 N. W. 831, 832. Fit, adapted, prepared, suitable, appropriate. Thomas v. State, 34 Okl. Cr. 49, 244 P. 816." Black's Law Dictionary, 4th Edition, 533, 534.

A modification of the chassis that will allow a tow bar to be fitted or attached would be a modification contrived or taken to be employed for a particular purpose. It would therefore be designed.

Vehicles may be operated on tracks part of the time within the definition of a vehicle but a trailer is a type of vehicle that must not be operated on tracks at any time. The fourth criterion is satisfied in that the 1948 Chevrolet chassis is not to be operated on tracks at any time.

The fifth criterion is also satisfied in that no part of the 1948 Chevrolet chassis will rest upon the towing vehicle.

Since the five criteria have been met such a chassis would come within the meaning and intent of a trailer as defined in R. S. 1954, c. 22, § 1.

It should be noted that there must be compliance with the provisions of R. S. 1954, c. 22, § 141, as amended by P. L. 1955, c. 83, which states in part:

" . . . A trailer having more than 2 wheels shall be connected to the towing vehicle by at least 1 chain, in addition to the hitch bar, of sufficient strength to hold the trailer on a hill if the hitch bar becomes disconnected, or shall be provided with some other adequate holding device."

Question No. 2:

Since the answer to Question No. 1 was yes, should the style indicated on the registration be a "box trailer" or a "four wheel box trailer?"

Answer No. 2:

See opinion for answer.

Opinion No. 2:

There is no provision in the motor vehicle laws for the styling of trailers as "box trailers" or "four-wheel box trailers." The manner of such a styling is an administrative decision of the Registry of Motor Vehicles. It would be suggested that a styling such as a "four-wheel trailer" would be more appropriate than a "box trailer" or a "four-wheel box trailer."

Assuming the 1948 Chevrolet chassis has a gross weight of over 2,000 pounds; and since it is not a farm trailer, boat trailer, house trailer, nor camp trailer of the covered wagon type, the trailer must be classified and rated, for purposes of registration fees, as a truck. R. S. 1954, c. 22, § 16, III, as amended. Further assuming that such a chassis would have a gross weight of not more than 6,000 pounds, the registration fee would be \$15.00. R. S. 1954, c. 22, § 19, as amended.

JEROME S. MATUS

Assistant Attorney General

May 22, 1964

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Extra-Construction of Building on Property Held by Maine School Building Authority

Facts:

The Maine School Building Authority (hereinafter called Authority) has received a request from the appropriate officials of a Maine town requesting permission to construct a school building, at the Town's own expense, on land presently owned by the Authority. The Authority favors the granting of a portion of its land to the Town for such use, thereby foreclosing the necessity of the Authority taking title to and responsibility for the new structure. Presently the Town and the Authority are parties to an agreement drawn pursuant to R. S., c. 41, § 243 to 259.

Questions:

1. Whether the Authority may legally grant (deed) to the Town a portion of land which presently is the subject matter of the procedure decreed in R. S., c. 41, § 243 - 259?

2. If not, may the Authority legally authorize the Town to construct a school building on said land?

Answers:

1. No.
2. No.

Reason:

Applicable statutory provisions are as follows:

"Sec. 247. Definitions.

"'Project' or the words 'school project' shall mean a public school building or buildings or any extension or enlargement of the same, including land, furniture and equipment for use as a public school or public schools, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such project." R. S., c. 41.