

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**For The Calendar Years**

**1963 - 1964**

Section 111 also provides, with regard to the minimum fine, that the excess be intentional and be 1,000 pounds or over. To grant a further tolerance would violate the clear intent of this provision.

Tolerances have been granted by the Legislature in other sections of the law, but there is no authority for a tolerance based on the possible inaccuracy of weighing devices.

LEON V. WALKER, JR.

Assistant Attorney General

December 14, 1964

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Transportation of School Children

Facts:

The superintending school committee of Town A has contracted with the superintending school committee of Town B whereby public school pupils of Town B receive public school instruction in Town A's public school system. *R. S., c. 41, § 105*. Pursuant to said agreement, Town A's school buses transport Town B's school children to the public schools in Town A.

Town A intends to utilize its buses for the additional purpose of transporting certain of Town B's school children to a parochial school in Town A, at a charge to the parents of these children. Town B has voted not to approve transportation for private school children. *R. S., c. 90-A, § 12, III, E*.

Questions:

Question No. 1:

Whether the use of Town A's school buses for the purpose of transporting Town B's public school children to the public schools in Town A constitutes a valid use?

Answer:

Yes.

Question No. 2:

Whether the use of Town A's school buses for the purpose of transporting certain of Town B's school children to a private school in Town A constitutes a valid use?

Answer:

The matter is of local import not concerning State subsidy moneys.

Reason:

Contracts for conveyance of public school children are contemplated in the law.

" . . . The superintendent of schools in each town shall procure the conveyance of all elementary school pupils residing in his town, a part or the whole of the distance to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said school as in the judgment of the superintending school

committee shall render such conveyance necessary. In all cases, conveyance so provided shall conserve the comfort, safety and welfare of the children conveyed and shall be in charge of a responsible driver who shall have control over the conduct of the children conveyed. Contract for said conveyance may be made for a period not to exceed 5 years. . . ." *R. S., c. 41, § 14.*

Too, the conveyance of private school children may be authorized by administrative units; but the cost of such conveyance is not an item upon which State subsidy is computed.

"E. Providing for the transportation of school children to and from schools other than public schools, except such schools as are operated for profit in whole or in part, subject to the following condition:

"1. Such sums shall not be considered in computing the net foundation program allowance on which state subsidy is computed under chapter 41, section 237-D. This subparagraph shall not apply to an administrative unit which transports children to a school pursuant to chapter 41, sections 105 and 107.

". . ." *R. S., c. 90-A, § 12, III, E.*

In conclusion, the first question is answered in the affirmative; and the second question presents no matter for determination. *R. S., c. 41, § 12, III, E.*

JOHN W. BENOIT

Assistant Attorney General

December 15, 1964

To: Walter B. Steele, Jr., Executive Secretary, Maine Milk Commission

Re: Milk Sales from Licensed Dealers to Caterers Servicing State-Owned Institutions

Facts:

A licensed milk dealer sells milk to a caterer. The caterer services a State teachers' college by providing students with meals on a contractual basis, including the milk purchased from the licensed milk dealer. The college in turn pays to the caterer a fixed amount per meal, with the catering service providing and paying for the necessary provisions and services.

Question:  
Do minimum prices for milk established by the Commission apply to sales by licensed dealers to catering service to State-owned and operated institutions?

Answer:

Yes.

Opinion:

The given facts establish a sale from a licensed dealer to a caterer. The fact that the caterer then sells the milk to a state-owned and operated institution, exempt from regulation as to minimum prices for milk, does not change the fact that the sale from the dealer to a caterer is a sale subject to minimum prices for milk.

JEROME S. MATUS

Assistant Attorney General