

MAINE STATE LEGISLATURE

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February 11, 1965

C. Wilder Smith, Deputy Commissioner

Labor and Industry

Emery O. Beane, Assistant

Attorney General

Automobile Head Rest, Applicability of Bedding and Upholstery Law.

FACTS:

We have your inquiry relative to automobile head rest proposed to be manufactured and to be sold in Maine, together with request for your ruling from the manufacturer whether said rest comes under the bedding law, and his descriptive advertisement with photographs and drawings of same.

QUESTION:

Is this item subject to the Bedding and Upholstery Law, 26 M.R.S. § 81 et seq., particularly Section 3?

ANSWER:

We answer in the affirmative.

OPINION:

If the item is to be used wholly as an unaffixed automotive accessory, we agree with your opinion that if the above Title is applicable to this item, section 3 must primarily control. In our opinion, the item is probably not, of itself bedding, as defined in section 1, because it is apparently not designed primarily, if at all, for sleeping; and not without straining the comparison, substantially similar to gliders, etc.; nor is it, of itself, upholstered furniture as defined in section 2, for reasons noted in an opinion to your department before the addition of section 3 to the statute re the somewhat analogous life preserver cushions, if this item is designed wholly for automotive use. (Opinion of March 22, 1954. See also: Opinion of June 22, 1961, after Section 3 added.)

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We feel, however, from the manufacturer's description, that this item is clearly a "cushion" as defined in section 3, bringing it under the inclusion, in other sections, of the language "articles subject to this sub-chapter," unless the item is taken out of the section by the exclusion "which is used as an integral part of any automobile . . ." Examination of legal definitions of the phrase "integral parts" as applied to mechanical devices, and of the manufacturer's description, leads us to believe that the item is not structurally an integral part of an automobile, and to that extent is not excluded. His illustrations are incomplete as to method of attachment to the automobile, and his descriptions re clamps conflict. As far as may be determined from his description, it seems plain that the item easily slips on and off, held in place only by a fork-type device and body pressure. It may

It may be arguable that the word "used" in the larger exclusionary phrase brings the item within the exclusion as indicating that the integration concept applies to the method of use rather than to the structural annexation. But this result, coupled with his own language and the apparent general public protection intent of the subchapter, brings us right back around to the question of whole or primary use, or intended use, in an automobile. The manufacturer's own language: "Makes ANY seat your own custom contoured chair in seconds," ". . . comfort in car, home or office," ". . . fitting to any individual, chair, or car seat"; (underlining ours), then, in this instance, brings the item, we believe, right back into the inclusion possibly of a pillow or similar article in section 1, of chairs or upholstered furniture in section 2 or cushion as defined before the exclusion in section 3.

Emery O. Beane, Jr.
Assistant Attorney General

ESM/sll