

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date September 23, 1965

To Walter F. Ulmer, Commissioner Dept. Mental Health and Corrections
From Courtland D. Perry, Assistant Att'y. Gen'l. Dept. Same
Subject Vending Machines at the Augusta State Hospital

FACTS:

For some time vending machines have been in operation in the basement of one of the buildings of the Augusta State Hospital, two vending machine companies, Pine State Tobacco & Candy Co., Augusta, Maine and the Canteen Co., of Maine, Auburn, Maine, have furnished the vending machine service.

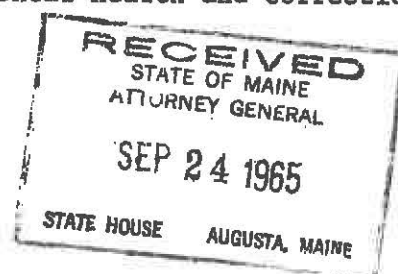
In the summer of 1965, the hospital administration deeming it advisable to better accommodate its employees and patients by a relocation of, and an increase in the number of, vending machines, also with a view toward increasing the commissions which are paid into the patients' benefit fund, submitted its specifications and a questionnaire covering type of machines and commodities, commission rate, availability of service and repair, etc., to each of the above vending machine companies. These firms are, to the knowledge of the administrative personnel of the Augusta State Hospital, the only such firms doing business in the Augusta area.

The firms were requested by the business manager of the Augusta State Hospital to submit their comments, relating to the specifications and questionnaire by August 16, 1965.

Comments from each firm responsive to all questions and including their offers of percentage commission to the Augusta State Hospital were received on August 16, 1965.

The Canteen Co., of Maine on the basis of the exclusive operation of vending machines at the hospital submitted its offer of a 20% commission to the hospital on every item to be sold. The Pine State Tobacco & Candy Co., proposed to operate vending machines on an exclusive basis offering a 16% commission, and less, on the items to be sold.

The business manager of the Augusta State Hospital through complete examination of both offers accepted the offer of the Canteen Co., of Maine. After the offer of the Canteen Co., of Maine was known to the representative of the Pine State Tobacco & Candy Co., that company submitted its amended offer on an exclusive basis of a commission of 22% on all items. The offer was rejected by the business manager, resulting in the Pine State Tobacco & Candy Company's representative taking the matter to Governor John H. Reed, who has requested the Commissioner of Mental Health and Corrections to take the matter under consideration.



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QUESTION:

Has the Department of Mental Health and Corrections through the institutions under its control, authority to have vending machines installed at the institutions as a service for employees, inmates and patients, without having such vending machine service put out to bid through the Bureau of Purchases?

ANSWER:


Yes.

OPINION:

The arrangement between the Augusta State Hospital and the vending machine company, operating machines at that institution involves merely the allocation of space and electricity to the vending machine company for the operation of the machines, for which the vending machine company pays to the Augusta State Hospital commissions on the gross receipts from sales, which receipts are all deposited in the patients' benefit fund.

It is the opinion of this office that no purchase as contemplated by the statutes relating to the Bureau of Purchases takes place in this arrangement, and, therefore, that the acquisition of such vending machine service need not be placed out to bid through the Bureau of Purchases.

The Department of Mental Health and Corrections has general supervision, management and control of the buildings at its institutions; it is our opinion that the department may authorize the Superintendent of the Augusta State Hospital, or of any other institution under the department, to allocate space to the operation of vending machines for the convenience of its employees, and patients or inmates, and to accomplish such end the superintendent may acquire vending machine service from the firm, which in the judgment of the superintendent provides the optimum service, considering all aspects of such service.


Courtland D. Perry
Assistant Attorney General

f/
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