

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

by corrective legislation in this State. The California law would be a good guide to use if you wish to propose such legislation.

JON R. DOYLE
Assistant Attorney General

October 8, 1965
Executive

Governor John H. Reed

Public Law 89-11 – Letter from President of Board of Commissioners, Government of District of Columbia

FACTS:

On April 14, 1965 the Congress of the United States granted consent to the following states, Maine, Massachusetts, New Hampshire, Pennsylvania, Maryland, and the District of Columbia, to enter into a compact relating to taxation of motor fuels consumed by interstate buses and to a compact relating to bus taxation proration and reciprocity. Both compacts were enacted into law by the Maine Legislature in 1963 and are set forth in 36 M.R.S.A. § 3091-3153 and 29 M.R.S.A. § 431-474 respectively. The District of Columbia, having adopted the same compacts through its legislative body, (in actuality, the Congress of the United States) has contacted the Governor of the State of Maine in order to carry out the terms of the compacts.

QUESTION:

Is it necessary that the legislature adopt an enabling statute expressly authorizing the Governor or some other state official to execute agreements to carry out the terms of said compacts?

ANSWER:

No.

OPINION:

The Bus Tax Proration Agreement as set forth in 29 M.R.S.A. § 431-474 and the compact entitled Taxation of Motor Fuels Consumed by Interstate Buses as set forth in 36 M.R.S.A. § 3091-3153 represent completely executed agreements on behalf of the State of Maine and sister states, adopting similar legislation, to accomplish the objectives set forth in said compacts.

29 M.R.S.A. § 433 (10) of the Bus Taxation Proration Agreement provides in part:

“This agreement shall enter into force and become binding between and among the contracting states when enacted or otherwise entered into by any 2 states. . . .”

Likewise, in 36 M.R.S.A. § 3099 of the compact on Taxation of Motor Fuels Consumed by Interstate Buses, it is clearly stated that:

“This agreement shall enter into force when enacted into law by any 2 states. Thereafter it shall enter into force and become binding upon any state

subsequently joining when such state has enacted the compact into law. . . .”

A second part of this same section merely provides for withdrawal from the compact by act of the legislature and notice of such withdrawal by the Governor.

The compacts represent entirely self-executing contracts entered into between the states. The mere act of legislative enactment constitutes the only assent required to legally bind a state to carry out the terms of such compacts. Certainly, the terms of said compacts are clear and unambiguous. All that remains to be done is the actual carrying out, or administration, of the terms of the compacts.

Pursuant to the provisions of 29 M.R.S.A. § 431 et seq. and 36 M.R.S.A. § 3091 et seq., the Secretary of State and the State Tax Assessor are designated as the administrators under whose supervision the terms of such compacts shall be carried out. This being so, and the fact that no action on behalf of the Governor is required in order to effectuate the terms of the above-mentioned compacts, it is suggested that any correspondence addressed to the Office of Governor pertaining to the execution of such compacts be directed to the attention of those officials charged with the administration of said compacts, to wit: the Secretary of State and the State Tax Assessor.

PHILLIP M. KILMISTER
Assistant Attorney General

September 17, 1965

Raeburn W. Macdonald

Water Improvement Commission

Waste Discharge License, Maine Sugar Industries Inc.

FACTS:

In your memorandum and diagram submitted to this office on September 15, 1965 you have set forth in effect the following factual situation:

Company V, a potato processing plant, has a license to discharge properly treated waste into P stream. Company S, a proposed sugar refinery, will discharge its waste materials through a portion of V's processing system and thence through Company V's waste outlet into P stream.

QUESTION:

To whom should a license for the discharge of sugar refining wastes be issued?

ANSWER:

Company S (Proposed Sugar Refinery)

OPINION:

The sugar refinery will cause the sole new source of pollution to the waters of P stream and must procure a license as a condition precedent to the discharge of any of its waste materials. (38 M.R.S.A. § 413)

The granting of a license is a permissive right and carries with it certain responsibilities owed to the licensor, i.e., Water Improvement Commission. The responsibility for the proper discharge of industrial wastes lies with the industrial firm