

MAINE STATE LEGISLATURE

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October 26, 1965

Austin H. Wilkins, Commissioner

Forestry

Leon V. Walker, Jr., Assistant

Attorney General

Interpretation of 1965 Forestry Laws

Your questions will be answered in the order in which you asked them.

Title 12, Section 1151. You would be authorized to establish reasonable standards as a prerequisite to approval of campsites.

Section 1401 applies statewide.

Section 1402 applies only to the Maine Forestry District.

Section 1403 - All fines go to the Forestry District. The language of the section clearly so states.

Title 25, Section 2438, provides that one-half the fine shall be paid to the complainant. If he is an MFD ranger, acting in the course of his employment, the money should be turned into the Forestry District. Title 12, Section 1254, gives Forest rangers power to arrest violators of all laws relating to forests. This would include Title 25, Section 2438. In my memo of June 28, 1963, I indicated doubt that the laws relating to throwing cigarettes on public ways, and kindling a fire with intent to injure, could not be said without reservation to pertain to forests and forest preservation. I believe Section 2438 does pertain, since it deals with fires in or adjacent to woods.

Section 2434, as amended in 1965, now pertains to forests. Section 2435 would pertain to forests, if the fire was in such a place that it would be likely to ignite forest land. Section 2437 pertains to forests, but I doubt that a court would attempt to penalize a violation of its provisions because of the vagueness of the penalty provision. It would seem advisable to introduce an amendment at the next session of the legislature to provide a definite penalty.

Section 1456-A seems to give your department the authority to decide which spark arresters are to be approved as efficient. An operator of equipment that does not have an approved and efficient arrester would be subject to fine or imprisonment or both. I cannot find any authority for a ranger to remove such equipment from the woods, but a temporary restraining order could very quickly be obtained. You have authority to approach a manufacturer of an arrester which does not meet with your standards and point out that anyone who purchases and operates such is violating the law.

October 26, 1963

The way I read Section 1653, a municipality could collect its fire suppression costs up to \$500 without reimbursing the State. I don't believe you would want to get into this collection business, although you could under the law. Perhaps you can arrive at an equitable solution through the Maine Municipal Association. A claim would not have to go to court if the offender wants to pay voluntarily.

The specimen complaints you requested are attached. The first is a complete complaint; the others contain merely the description of the offense. Section 1653 does not contain a penalty provision, but merely a civil right to recover suppression costs.

Leon V. Walker, Jr.
Assistant Attorney General

LWVJr:H
Attached