

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

**ATTORNEY GENERAL**

for the calender years

1965 - 1966

*ISSUE:*

May the licensee described above discharge waste at any time other than that which is provided for within the terms of its license?

*ANSWER:*

No.

To hold that a licensee may unilaterally change the terms of his license would be to make licensing laws a nullity. Stated simply, a license is a permit or privilege to do that which would otherwise be unlawful.

The terms or conditions of a license to discharge waste may be changed only with the approval of the licensor, to wit: the Water Improvement Commission.

Licenses issued by the Commission are issued subject to conditions actually imposed by the legislature. In other words, in order to insure that a degradation or defilement of classified waters shall not take place, the legislature has in effect said that the Commission shall issue licenses only to those applicants whose contemplated discharge of waste into receiving waters will not degrade the classification of said waters. 38 M.R.S.A. § 414, (1).

38 M.R.S.A. § 414 (3) specifically provides:

“Any license to so discharge granted by the commission may contain such terms or conditions with respect to the discharge as in the commission’s determination will best achieve the standards set forth in section 363.”

Clearly, the period of time during which a firm is to discharge waste into a certain body of water is a vital element for the Commission to consider in determining whether or not to grant licensure.

Without further elaboration, it may be concluded that a license to discharge waste on a seasonal or limited time basis must be strictly complied with by the licensee.

It is clearly violative of our water improvement law for an industrial firm, which is a seasonal licensee, to operate its plant and discharge waste during an off season period.

In closing, it should be noted that the question answered in this opinion is based upon facts as set forth in a newspaper report. It is entirely possible that the newspaper report may not be accurate as to all of the facts contained therein.

PHILLIP M. KILMISTER  
Assistant Attorney General

March 23, 1966  
Electricians Examining Board

Theodore E. Edwards, Chairman

Municipal licensing and recording fees for electricians.

*FACTS:*

The Public Laws of 1965, C. 385, § 3 repealed and replaced 32 M.R.S.A. § 1103.

The Public Laws of 1965, C. 385, § 3 (now 32 M.R.S.A. § 1103 as amended) reads:  
‘§ 1103. Municipal licenses not required; municipal permits.

No municipality, provisions in charters to the contrary, shall require electricians to be municipally licensed, but no municipality shall issue a permit for

an electrical installation unless satisfied that the person applying for the permit complies with this chapter.'

The former 32 M.R.S.A. § 1103 provided:

' §1103. Provisions in city charters not affected.

This chapter shall not prevent the licensing of electricians licensed hereunder by cities under the charters or ordinances thereof.'

A municipality has been requiring electricians licensed under 32 M.R.S.A. § 1103 to record their State electricians' licenses and charges a recording fee for doing so. Another municipality is still charging a \$10.00 electrician's licensing fee.

*QUESTION:*

Can municipalities require State licensed electricians to pay such recording fees or local license fees?

*ANSWER:*

No.

*OPINION:*

The intent of 32 M.R.S.A. § 1103 as amended, is crystal clear, municipalities may not issue an electrician's license nor may they charge a fee for same. The use of a recording fee for an electrician's license is in effect the issuance of a license by a municipality as it requires the electrician to pay a fee to the municipality for a license issued. Neither of the practices set forth in the facts are proper or legal under 32 M.R.S.A. § 1103 as amended.

It should be noted that municipalities still have the authority to issue permits for electrical installations. 32 M.R.S.A. § 1103 does not prevent the charging of a fee for such a permit issued by a municipality.

JEROME S. MATUS  
Assistant Attorney General

April 1, 1966  
Education

Kermit S. Nickerson, Deputy Commissioner

Creation of Expenditure by Administrative Unit Re State Construction Subsidy.

*FACTS:*

The Maine Laws relating to public schools provide, inter alia, for the payment of State subsidy to administrative units on the basis of the unit's expenditures for capital outlay purposes.

" \* \* \* On the basis of all the reports filed in the office of the commissioner on November 1st of each year, the commissioner shall determine the total amount to be paid to all of the School Administrative Districts and other eligible administrative units in that year, for capital outlay purposes, and shall apportion out of moneys appropriated for this purpose, in December of that year, to the