

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

M.R.S.A. § 1, sub. 14.

The tractor mounted potato combine is properly classified as special mobile equipment and is not properly classified as a farm tractor. We are limiting this opinion to the equipment described in the brochures. How similar motorized equipment would be classified depends on the points of similarity. Suffice it to say any motorized equipment that is considered as one unit and which does not *draw* plows, mowing machines, and other implements of husbandry cannot be a farm tractor. A farm tractor is a separate power unit attached to the front of farm machinery thereby moving the equipment.

Webster's International Dictionary, Second Edition, gives as its first definition of the word "draw" "to cause to go continuously forward by force applied in advance of the thing moved." The tractor portion of the combine does not draw the combine. It is the motive power of the combine.

Although a tractor mounted potato combine is a farm implement, the tractor portion of the potato combine is an integral portion of the combine and does not draw the combine. It is part and parcel of the combine and cannot be classified as a farm tractor.

The tractor mounted potato combine is a self-propelled vehicle. It is not designed to be used primarily for the transportation of persons or property and it is incidentally operated and moved over the highways. It therefore meets all the statutory criteria set forth for special mobile equipment and should be so classified.

JEROME S. MATUS
Assistant Attorney General

December 28, 1966
Maine State Police

Col. Parker F. Hennessey, Chief

Inspection of Special Mobile Equipment

FACTS:

By memorandum dated December 26, 1966, you ask for an interpretation of 29 M.R.S.A. § 2122.

QUESTION:

Does the law allow the Chief of the Maine State Police to exempt special mobile equipment from being inspected?

ANSWER:

No.

OPINION:

A unit of special mobile equipment must be a vehicle and must be only incidentally operated or moved over the highways. The statutory definition of special mobile equipment clearly sets this forth:

"Special mobile equipment. 'Special mobile equipment' shall mean every self-propelled *vehicle* not designed or used primarily for the transportation of

persons or property and *incidentally operated or moved over the highways*, including road construction or maintenance machinery, ditch-digging apparatus, stone-crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.” (Emphasis supplied.) 29 M.R.S.A. § 1, 14.

Every vehicle registered in this State must be inspected at an official inspection station. The first sentence of the first paragraph of 29 M.R.S.A. § 2122 permits no other interpretation. The first sentence reads in part as follows:

“The Chief of the State Police shall require twice each year that *every vehicle* registered in this State be inspected at an official inspection station, * * *.” (Emphasis supplied.)

The fact that special mobile equipment is only incidentally operated or moved over the highways is recognized by the next to the last paragraph of 29 M.R.S.A. § 2122, which reads as follows:

“The Chief of the State Police is authorized to make necessary rules and regulations concerning the inspection of special mobile equipment which is registered, *but not ordinarily operated over the highway.*” (Emphasis supplied.)

This paragraph does recognize that certain of the items listed in the first paragraph of 29 M.R.S.A. § 2122 as required equipment to be inspected may not be applicable to special mobile equipment and hence the right to make necessary rules and regulations concerning the inspection of special mobile equipment. No inference should be drawn from this paragraph or any other paragraph of 29 M.R.S.A. § 2122 that special mobile equipment can be exempted from inspections. To the contrary, this paragraph provides that necessary rules and regulations concerning inspection of special mobile equipment may be made by the Chief of the Maine State Police.

In the making of necessary rules and regulations concerning the inspection of special mobile equipment, the Chief of the Maine State Police must stay within his statutory framework of authority. He cannot by rule and regulation say that there need not be an inspection of special mobile equipment and thus contravene the plain statutory language of the first sentence of the first paragraph of 29 M.R.S.A. § 2122 which requires the inspection of every vehicle registered in this State.

JEROME S. MATUS
Assistant Attorney General