

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

authority of the Bank Commissioner or the Acting Insurance Commissioner and if promulgated, would have no legal effect.

JEROME S. MATUS  
Assistant Attorney General

September 1, 1967  
Banks and Banking Insurance

Philip Gingrow, Director  
Harold Trahey, Acting Commissioner

Insurance

Interpretation of Accident and Health Insurance Provision of an Act Revising Laws Relating to Licensed Small Loan Agencies.

*FACTS:*

The 103rd Legislature enacted P. L. 1967, c. 473, An Act Revising Laws Relating to Small Loan Agencies. The Act amended 9 M.R.S.A. § 3082 by including the following prohibition in relation to the sale of accident and health policies in conjunction with small loans:

“No accident and health insurance shall be sold unless there is a waiting period of 30 days or more, a minimum payment of \$40 per month and the loan must be for at least 18 months.”

*QUESTION:*

May an accident and health insurance policy sold in conjunction with a small loan be written with a 30-day waiting period under a retroactive plan?

*ANSWER:*

No.

*OPINION:*

An accident and health insurance policy with a 30-day waiting period without a retroactive plan would provide for payments for accident or sickness from the 31st day of the accident or sickness.

An accident and health policy with a 30-day waiting period and a retroactive plan (for purposes of illustration a 30-day retroactive plan) would provide for payments of indemnification for accident or sickness from the initial day of the accident or sickness provided the accident or sickness was over 30 days in duration. Under both plans (the 30-day waiting period without the retroactive plan and the 30-day waiting period with the retroactive plan), there would be no indemnification payments if the accident or sickness was 30 days or less in duration.

If the reference language amending 9 M.R.S.A. § 3082 amended a section of Title 24 of the Maine Revised Statutes Annotated (the insurance title) rather than 9 M.R.S.A. (the banking title), we might conclude that a 30-day waiting period with a retroactive plan could be written. Under present State of Maine insurance regulations waiting periods with retroactive plans are permitted. However, in interpreting the language of the

legislature in permitting accident and health insurance on small loans, we must recognize that the legislature intended to permit the sale of accident and health policies in conjunction with small loans to be sold only under limited circumstances – that is, the loan must have a minimum payment of at least \$40 per month, the loan had to extend for a period of at least 18 months, and the loan must have a waiting period of at least 30 days. It should be further recognized that a retroactive plan would result in a higher premium because of the greater benefits, and it is our judgment that the legislature intended the more limited coverage with the corresponding lower premium. It is our further judgment that in interpreting the meaning of the words “waiting period of 30 days or more” that we cannot give the broad technical insurance meaning of “waiting period” which meaning would include retroactive and non-retroactive plans. We believe that the legislature in restricting the sale of accident and health policies in conjunction with small loans would follow a dictionary definition of “waiting period” which reads as follows:

“waiting period – insurance – in certain forms of insurance, as accident and health & workmen’s compensation insurance, a stated period after the beginning of disability during which no benefits are paid.” *Websters New International Dictionary, 2d Edition, p. 2865.*

which definition would not contemplate a retroactive plan. It is, therefore, our opinion that a waiting period with a retroactive plan is not permitted by 9 M.R.S.A. § 3082.

JEROME S. MATUS  
Assistant Attorney General

September 12, 1967  
Agriculture

Harold E. Bryant, Ex. Vice President  
Maine Potato Council  
Licensing and Controlling of Processing Grade Potatoes

**FACTS:**

The Commissioner of Agriculture has established a Maine processing grade for potatoes. These potatoes were meant to be used exclusively for processing. However, some have reached the fresh vegetable market. The Maine Potato Council would like to prevent this by requiring growers and shippers to be licensed by the Commissioner of Agriculture to ship this grade and thereby be able to control the use of these potatoes.

**QUESTION:**

Whether the Commissioner of Agriculture or the Maine Potato Commission can, under present Maine Law, employ a licensing device to make sure that processing grade potatoes are used exclusively for processing purposes?

**ANSWER:**

No.