

MAINE STATE LEGISLATURE

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November 22, 1967

Major Ralph E. Staples, Deputy Chief

State Police

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Attorney General

Toll free passage on State Ferries by State Policemen

FACTS:

This office has been asked to render an opinion on whether or not State Policemen in the performance of their official duties should be required to pay transportation fees on the various State Ferries. At present, the Maine State Ferry Service is charging regular fares for such policemen. These fares are paid from the State Police operating budget. Since the State Police pay no tolls on State bridges or the Turnpike, they think the same principles might be applied to State Ferries to eliminate fares.

QUESTION:

Should State Policemen in the performance of their official duties be required to pay transportation fees on State Ferries?

ANSWER:

See Opinion.

OPINION:

There appears to be no legislation or case law in the State of Maine which answers this precise question.

The Act which authorizes ferry service to North Haven, Vinalhaven, Islesboro, and Swan's Island is P. & S.L., 1957, c. 190. Under this Act, the section dealing with tolls, § 4, (as repealed and amended by P. & S.L., 1961, c. 183, § 4) makes no mention of special rates for policemen. There is an exception, § 4-A, for students, who by this section pay reduced rates. Under § 4 the Maine Port Authority sets the rates, subject to the approval of the Public Utilities Commission.

Since ferries are "public utilities" under 35 M.R.S.A. § 15 (3), (23) and (13), their rates are subject to the control of the Public Utilities Commission under 35 M.R.S.A. § 51. Under these controls, rebates or reduced rates are permitted for policemen in their official capacity. 35 M.R.S.A. § 103.

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This leaves us with the conclusion that it is clear that toll free passage on State Ferries by State Policemen in the performance of their official duties is permissible under the law. However, this is not to say that it is mandatory. The State Ferries are free to allow such free transportation but they are not required to do so.

As I understand the toll free situation on State bridges and the Turnpike, this is given the State Police as a matter of courtesy. Unless the same courtesy can be obtained from the Maine State Ferry Service, it appears that legislation will be needed to assure toll free passage on the State Ferries.

WEW, Jr./mf

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