

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

applicable rate of tax is 4½%.

WENDELL R. DAVIDSON
Assistant Attorney General

January 10, 1968
Bureau of Watercraft Registration and Safety

Robert H. Johnson, Director

Transmittal of Boating Accident Reports by the Bureau to Private Sources.

FACTS:

Pursuant to the terms of 38 M.R.S.A. § 239 the operator of any watercraft involved in an accident which results in injury to another person or damage to property in an amount of \$50.00 or more is compelled to submit a written report of said accident to the Bureau of Watercraft Registration and Safety. In your memorandum submitted to this office under date of December 11, 1967, you state that the Bureau of Watercraft Registration and Safety transmits copies of these accident reports to the U. S. Coast Guard which assembles the data into yearly statistical accident reports. This is done pursuant to express statutory authority. You state in your memo that frequently the Bureau receives requests from insurance companies, claims offices, attorneys, etc., for copies of these accident reports. In reference to these private inquiries you ask the following question:

QUESTION:

Is it permissible for the Bureau to transmit copies of these accident reports to such private sources in accordance with Title 38, section 239 or any other statutes of our State with respect to the transmittal of official state records?

ANSWER:

No, unless the author of the report consents to a transmittal of same.

OPINION:

Reports of private individuals to government officials, even pursuant to statute, are generally held not to be public records unless made so by statute. Any reports or surveys of accidents compiled by the Bureau would be public records but the reports of private individuals furnished to the Bureau are of a confidential nature.

38 M.R.S.A. § 239 entitled "Accidents" provides in part as follows:

"3. Accident reports. The operator of any watercraft involved in any accident or casualty, which results in death, disappearance or injury to any person or damage to property to the estimated amount of \$50. or more, shall report the same by the quickest means possible to the nearest available inland fisheries and game warden, coastal warden, state police officer, or the sheriff of the county where the accident occurred. All law enforcement officers shall forthwith report accidents to the bureau. The operator shall file a written accident report on forms provided by the bureau within 48 hours. He should include his name and address

and such other information as required by the bureau.

“4. Transmittal of information. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the bureau pursuant to this section shall be transmitted to said official or agency of the United States.”

The transmittal of the contents of accident reports is specifically restricted according to the terms of subsection 4 of the above-quoted statute. Had the legislature intended to make the contents of said reports available for public inspection, it clearly would have expressly provided therefor.

It may well be that in the future the legislature may see fit to make boating accident reports as readily accessible to public inspection as motor vehicle accident reports. In regard to the latter, 29 M.R.S.A. § 891 provides that the Chief of the State Police may furnish photocopies of motor vehicle accident reports to any person requesting same. Whether or not the Bureau of Watercraft Registration and Safety should have similar authority in regard to revealing the contents of boating accident reports is purely a matter for the legislature to determine. As the law now stands, however, we do not believe such authority can be implied.

By requiring individuals to submit reports of boating accidents, we believe that the legislature intended that such information should be elicited by the Bureau only as a basis for gathering information and data as an aid toward a greater understanding of boating accident causation and abatement of same.

PHILLIP M. KILMISTER
Assistant Attorney General

January 18, 1968
Public Utilities

David K. Marshall, Chairman

Issuance of Findings of Public Utilities Commission to House of Representatives Per Order.

FACTS:

On January 12, 1968, the House of Representatives ordered that the Public Utilities Commission be directed to report, by January 19, 1968, to the House of Representatives “its findings relating to the natural gas shortage and resulting explosion in the South Portland area.”

Presently, the Commission is conducting an investigation of the reference natural gas shortage pursuant to 35 M.R.S.A. § 141. The reference section contains the following language, inter alia:

“ * * * Neither the order nor recommendation of the Commission nor any accident report filed with the Commission shall be admitted as evidence in any action for damages based on or arising out of the loss of life or injury to the person or property referred to in this section.”

QUESTIONS:

1. Whether or not the Commission may issue findings to the House of Representatives pursuant to the instant order notwithstanding the provisions of 35 M.R.S.A. § 141?