

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

*FACTS:*

A state employee, presently in the classified service, wishes to become a candidate for an office which is elected by the State Legislature.

*QUESTION:*

Does a classified state employee have to resign from classified service before becoming a candidate for an office elected by the state legislature?

*ANSWER:*

Yes.

*REASONS:*

5 M.R.S.A. § 679 reads as follows:

“No officer or employee in the classified service of this State shall, directly or indirectly, solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution or political service, whether voluntary or involuntary, for any political purpose whatever from any officer, agent, clerk or employee of the State or from any person.”

It was held in an opinion of this office dated March 8, 1962, that a person in the classified service is prohibited under § 679 from being a candidate for public office in a partisan election.

Consistent with this opinion, we find that a classified employee seeking an office elected by the state legislature would, either directly or indirectly, be soliciting or receiving a political service from legislators on becoming a candidate. This would violate 5 M.R.S.A. § 679. He must therefore resign from the classified service before becoming a candidate for this office.

WARREN E. WINSLOW, JR.  
Assistant Attorney General

April 5, 1968

Honorable Joseph T. Edgar  
Secretary of State

Honorable David H. Stevens  
Chairman, Highway Commission

Colonel Parker F. Hennessey  
Chief, Maine State Police

Gentlemen:

*SYLLABUS:*

29 M.R.S.A. § 1462 provides minimum standards for warning lights on State Highway Commission vehicles used in plowing and sanding public ways. § 1361 authorizes

Secretary of State to determine when a given light meets minimum standards.

*FACTS:*

Certain State Highway Commission vehicles used in plowing snow and sanding on public ways are neither equipped with "2 auxiliary lights" "at least 6 inches in diameter", nor in lieu thereof with "at least one auxiliary rotary flashing light having 4-inch sealed beams and showing amber beams of light over a 360° range." (Emphasis supplied.) 29 M.R.S.A. § 1462. All State Highway Commission vehicles used in plowing snow and sanding on public ways are equipped with one or more auxiliary lights featuring 50 C.P. bulbs in fixed position around which rotate 360° three ocular ground high magnification lenses delivering up to 10,000 candlepower and commonly called a "Whelen Light." The light unit is not a so-called "Sealed Beam."

Upon inquiry it is learned that the attempt to use 2 auxiliary lights at least 6 inches in diameter met with many complaints (which was acknowledged by the State Police) of inadequacy in stormy weather. The Commission resorted to sealed beams which proved equally inadequate. They were prone to chronic failure because sealed beam units available in rotary lights were not designed to resist vibration, shock, dust, moisture, corrosion and the general abuse subjected to the unit because of it being mounted on maintenance vehicles exposed to the severe conditions Maine winters have to offer, thus the complaints again were that the maintenance vehicles were not properly lighted.

*QUESTION:*

Is this installation on the Commission vehicles in violation of 29 M.R.S.A. § 1462?

*ANSWER:*

No, provided the Whelen Light equals or exceeds the minimum standards of 4-inch sealed beams or two lights 6 inches in diameter.

*REASON:*

A brief sketch of the historical background of 29 M.R.S.A. § 1462 sheds light on the intent of the legislature.

R. S. 1944, C. 19, § 34 was amended by P.L. 1945, C. 335, by adding a new section 34-A entitled "Public Safety with Snow Removal or Sanding Equipment Promoted", required auxiliary lights on vehicles used for plowing snow or sanding on public ways.

"The light showing to the front shall be a blue light and at least 6 inches in diameter. The light showing to the rear shall be a red light at least 6 inches in diameter. These 2 lights shall be equipped with blinker attachments."

P.L. 1963, C. 147 amended R.S. 1954, C. 22, § 44 as follows:

"All trucks, graders and other vehicles, while being used for the express purpose of plowing snow or sanding on public ways shall be equipped with at least 2 auxiliary lights to be mounted on the highest practical point on the vehicle, one showing to the front and one to the rear of the vehicle. The lights shall emit an amber beam of light and shall be at least 6 inches in diameter and shall be equipped with blinker attachments. In lieu of the lights hereinbefore specified, such vehicles may be equipped with at least one auxiliary rotary

flashing light having 4-inch sealed beams and showing amber beams of light over a 360° range,”

Between 1945 and 1963 there were amendments in 1949, 1955 and 1961. These are not set forth as they do not add any special emphasis or language relating to this matter.

The fundamental rule in construing legislation is to ascertain intention of the Legislature and to give effect thereto. *Camp Walden vs. Johnson*, 156 Me. 160; *Emple Knitting Mills vs. City of Bangor* 155 Me. 270, and many others too numerous to mention.

This provision of the statute came into being in 1945 and the title then used: “Public Safety with Snow Removal or Sanding Equipment Promoted”, comes the closest to defining the intent of the statute when compared with all other language used in the evolution of the present statute.

The history of the present act is indicative of a continuing attempt to determine what standards are required to meet the demand for public safety. Color, size, blinking, range, etc. have been the principal concern in the development of a statute which would create a minimum standard to meet that demand. The reason for lights on plows and sanding vehicles is to give adequate warning to operators of other vehicles that a large and bulky object is on the highway.

We are ruling, as a matter of law, that the so-called “Whelen Light” is legal under 29 M.R.S.A. § 1462, provided it equals or exceeds the minimum standards of 4-inch sealed beams or two lights 6 inches in diameter. Whether or not the “Whelen Light” equals or exceeds the minimum standards should be determined by the Secretary of State. 29 M.R.S.A. § 1361.

GEORGE C. WEST  
Deputy Attorney General

April 5, 1968  
Bureau of Taxation

To: Ernest H. Johnson, State Tax Assessor

Subject: Imposition of Motor Vehicle Excise Tax on Motor Vehicles Owned by Non-resident Servicemen.

**SYLLABUS:**

A PERSON SERVING IN THE ARMED FORCES OF THE UNITED STATES, WHO IS NOT PRESENT IN MAINE IN COMPLIANCE WITH MILITARY ORDERS, WHO IS NOT A DOMICILIARY OR RESIDENT OF MAINE, BUT WHOSE MOTOR VEHICLE IS IN MAINE, MAY REGISTER HIS MOTOR VEHICLE IN MAINE WITHOUT BEING REQUIRED TO PAY THE MOTOR VEHICLE EXCISE TAX LEVIED BY TITLE 36 M.R.S.A. § 1482 ET SEQ.

**FACTS:**

The Maine Supreme Judicial Court on February 27, 1968, in the case of *Stephenson et al vs. Curtis, Secretary of State*, determined that a person serving in the Armed Forces of the United States and present in the State of Maine solely in compliance with military orders, but who is a resident of or is domiciled in a state other than the State of Maine, should be allowed to register his motor vehicle in Maine free of payment of the Maine