

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

ANSWER:

No.

OPINION:

The State has accepted only the provisions of the National School Lunch Act, as that Act was originally passed in 1946. The State has not yet accepted the 1968 amendment to that Act, and such amendment cannot be deemed impliedly accepted by virtue of the acceptance of the original Act. The general rule in such case has been stated as follows:

“ . . . [W]hen a statute adopts all or part of another statute, . . . by a specific and descriptive reference thereto, the adoption takes the statute as it exists and does not include subsequent additions or modifications of the adopted statute, where it is not expressly so declared.” (Citations omitted.) 50 Am. Jur. *Statutes* § 39.

See also 168 A.L.R. 621, 631 for a collection of cases supporting this rule. *Cf. Collins v. Blake*, 79 Me. 218, 9 Atl. 358 (1887).

Accordingly, without legislative acceptance of the provisions and benefits of the 1968 amendment, the Department of Education is without authority to administer the programs thereby created.

ROBERT G. FULLER, JR.
Assistant Attorney General

August 1, 1968
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

SUBJECT: Snow Traveling Vehicles

SYLLABUS:

A SNOW TRAVELING VEHICLE IS A “MOTOR VEHICLE” FOR PURPOSES OF THE SALES AND USE TAX LAW.

FACTS:

Chapter 479 of the Public Laws of 1967, which became effective on July 1, 1968, is an act which regulates snow traveling vehicles.

In an Attorney General’s opinion dated April 11, 1968, it was determined, for Excise Tax purposes, that snow traveling vehicles come within the definition of “motor vehicles” as set out in 36 M.R.S.A. §1481 (3), inasmuch as they are allowed to operate on the public highways, as defined in 23 M.R.S.A.

QUESTION:

Is a snow traveling vehicle to be considered a “motor vehicle” for the purposes of the Sales and Use Tax law?

ANSWER:

Yes.

LAW:

“The tax imposed by chapters 211 to 225 shall be levied upon all isolated transactions involving the sale of motor vehicles excepting those sold for resale, and excepting an isolated transaction involving a sale of motor vehicles to a corporation when the seller is the owner of a majority of the common stock of such corporation.” 36 M.R.S.A. § 1764

“When one or more motor vehicles or farm tractors are traded in toward the sale price of another motor vehicle or farm tractor, the tax imposed by Chapters 211 to 225 shall be levied only upon the difference between the sale price of the purchased motor vehicle or farm tractor and the sale price of the motor vehicle or vehicles or farm tractor or tractors taken in trade, except for transactions between dealers involving exchange of farm tractors or motor vehicles from inventory.” 36 M.R.S.A. § 1764

“ ‘Motor vehicle’ means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways.” 36 M.R.S.A. § 1752 (7)

REASONS:

The Attorney General’s Opinion of April 11, 1968, ruled that snow traveling vehicles are to be considered motor vehicles for Excise Tax purposes. The definition of a motor vehicle for purposes of the Sales and Use Tax act is similar to the definition of a motor vehicle under 36 M.R.S.A. § 1481 (3), and the opinion of April 11, 1968 is incorporated for the purpose of this opinion. Thus, snow traveling vehicles are “motor vehicles” within the meaning of 36 M.R.S.A. § 1752 (7).

Therefore, the term “motor vehicle” as it is employed in 36 M.R.S.A. § 1764 and 1765 includes snow traveling vehicles. Isolated sales of snow traveling vehicles will be taxable under § 1764. A trade-in credit will be allowed for snow traveling vehicles under § 1765.

WENDELL R. DAVIDSON
Assistant Attorney General

August 1, 1968

C. Edward Tenney, Captain
Maine Maritime Academy
Business Manager
Castine, Maine 04421

Dear Captain Tenney: Re: Maine Maritime Academy – Authority to Mortgage

SYLLABUS:

The Maine Maritime Academy, having powers given corporations organized under the general law, may place a mortgage upon its real estate.