

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

the Maine Board of Boiler Rules and Regulations. 26 M.R.S.A. §142.

CHARLES R. LAROCHE
Assistant Attorney General

October 1, 1970
Legislature

Raymond Rideout, Ch. Gov. Operations

University of Maine Motor Vehicles

SYLLABUS:

1. The University of Maine is a body corporate and its motor vehicles are not state-owned vehicles.

2. The University of Maine, being an instrumentality and agency of the State for restricted purposes, the Secretary of State is authorized to issue registration certificates and plates without fee to State governmental agencies.

3. Since the University of Maine is an instrumentality and agency of the State for restricted purposes, there is no legal impediment to the inclusion of its motor vehicles under the State's insurance contract.

QUESTIONS:

1. Are the University of Maine vehicles considered State vehicles and are they covered under Chapter 544 of the Public Law as enacted by the Special Session of the Maine Legislature?

2. If the University vehicles are not State owned, do they have to pay excise taxes and/or license fees for their registration?

3. If the University vehicles are not State vehicles, can they be legally covered under the State Motor Vehicle Insurance contract?

ANSWERS:

1. No.

2. See Reason 2.

3. See Reason 3.

REASONS:

1. The University of Maine was established by P. & S. Law 1865, Chapter 532, as a body politic and corporate by the name of The Trustees of the State College of Agriculture and Mechanic Arts with power to establish and maintain a college. In *Orono v. Sigma Alpha Epsilon Society*, 105 Me. 214, it was held to be a legal entity wholly separate and apart from the State. It holds its property, both real and personal, in the name of the University. Although by 20 M.R.S.A. § 2252, as enacted by P.L. 1945, Chapter 98, it was declared to be an instrumentality and agency of the State for restricted purposes, it was said in Opinion of Attorney General, April 30, 1945, that the reason for this declaration was in connection with the University's entitlement to receive Federal funds, and the University has continued to hold its property in its own name, and to exercise the powers of a corporation. As recently as 1967, the Act to Coordinate

Public Higher Education (P. & S. 1967, Chapter 229) provided that "all the assets, tangible or intangible, real, personal and mixed [of the State colleges] are transferred and assigned to the university", and the Attorney General was empowered to effect such transfers.

2. As has been noted above, the Legislature declared the University to be an instrumentality and agency of the State for restricted purposes. As such, even though it is a separate entity, it is a "State governmental" agency, to whom the Secretary of State is authorized by 29 M.R.S.A. § 256, to issue registration certificates and plates without fee. It is noted that, in 1943, prior to the afore-mentioned declaration, it was determined in Opinion of Attorney General, March 17, 1943, that, since the University was not then such an instrumentality, the Secretary of State was not justified in issuing motor vehicle registrations without fee.

As to the liability of the University for payment of excise tax, we refer to 36 M.R.S.A. §1483, subsection 8. Undoubtedly the University enjoys excise tax exemption as a literary and scientific institution not taxable as to its real estate.

3. Since the University is an instrumentality and agency of the State for restricted purposes, there is no legal reason why its vehicles may not be included under the State's insurance contract. We have not given an unqualified "Yes" answer to your question however, since it is a matter for the insurance companies to decide whether to include in the insurance contract vehicles other than State owned. Very likely some companies would decline to accept such an inclusion. The University does maintain its own comprehensive fire and theft coverage, and insures occupants of its vehicles for medical payments coverage. But its vehicles are included in the State's public liability policy by special endorsement with stated limits of coverage.

LEON V. WALKER, JR.
Assistant Attorney General

October 16, 1970
Environmental Improvement Comm.

Henry Mann, Chemist

Augmented Water Flow for Dilution Purposes.

SYLLABUS:

The Environmental Improvement Commission in issuing a waste discharge license is only determining that the proposed discharge will not lower the classification of any receiving body of water. The Commission's decision is not an adjudication of the rights of various riparian owners.

FACTS:

An application for a waste discharge license had previously been turned down, since it was determined by the Environmental Improvement Commission that the flow of the receiving waters would not be constant enough to accommodate such a load of waste. Now, that applicant proposes to dilute his waste by artificially augmenting the stream flow. This augmentation will be achieved by adding uncontaminated water from the local water district to the prior proposed waste flow.