

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date January 7, 1971

To Maynard F. Marsh, Deputy Commissioner

Dept. Inland Fisheries & Game

From James S. Erwin

Dept. Attorney General

Subject \_\_\_\_\_

This memorandum is to clarify a situation which exists because of a Memorandum of Law written by Charles R. Larouche, Assistant Attorney General, and sent to you on November 24, 1970. At that time the Fish & Game Department apparently considered that its game wardens who were flying airplanes were considered by the Department, itself, to be pilots.

Since that time the Department has changed its view and considered all game wardens to be wardens of one of three classifications. It also seems clear now, that the Department does not consider a game warden who flies an airplane to be primarily a pilot, but to be a game warden - a law enforcement officer - who is issued an airplane in the furtherance of his duties in exactly in the same sense that a game warden who does not fly is issued an automobile, or a boat, or even a snowmobile for the performance of his duties.

In view of the fact that by memorandum dated December 31, 1970, the Personnel Department has approved a change of title for warden classifications so that the position formerly identified as "Game Warden Pilot" has been changed to "Game Warden III". The memorandum of Assistant Attorney General Larouche, dated November 24, 1970, is no longer controlling. Basing his Memorandum of Law upon the fact that the Inland Fish & Game Department, itself, had classified the individual in question as a "Game Warden Pilot", Assistant Attorney General Larouche was compelled to resolve an apparent conflict between 5 M.R.S.A. section 1121, subsection 1, paragraph D and 5 M.R.S.A. section 1121, subsection 4, paragraph A, subparagraph 2. The above conflict apparently no longer exists inasmuch as the department now does not consider the individual in question to be an airplane pilot, but a game warden who is issued a plane in the performance of his duties.

Therefore, a game warden III may be permitted to continue in State's service until age 63 to attain 25 years of service for retirement purposes.



J. S. E.

JSE:m