

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

June 15, 1971  
State

Joseph T. Edgar, Secretary of State

*SYLLABUS:*

The statutes requiring filing of proof of financial responsibility, do not apply to the uninsured owner of a motor vehicle involved in a reportable accident where, in the judgment of the Secretary of State, the liability of such owner for damages resulting from such accident is covered by a liability insurance policy insuring the operator of said vehicle.

*FACTS:*

Mrs. A owns an uninsured motor vehicle. Her son does not own a motor vehicle but does carry automobile liability insurance. With Mrs. A's full knowledge and consent, her son borrows her vehicle and becomes involved in an accident. Rather than handle the matter through the son's insurance company, Mr. A, the father, pays the damages sustained by the other party to the accident and obtains a complete release from any further liability.

*QUESTION 1:*

Under the provisions of 29 M.R.S.A. § 783, subsection 5, paragraph F, is it mandatory that the Secretary of State require Mrs. A to file proof of having obtained insurance and maintain that insurance for a period of 3 years, as provided by the Financial Responsibility Law?

*ANSWER 1:*

No, see reason.

*QUESTION 2:*

Does the language of the above-cited section prohibit the Secretary of State from requiring Mrs. A to obtain insurance and maintain it for the 3-year period?

*ANSWER 2:*

Yes, see reason.

*QUESTION 3:*

Is it optional with the Secretary of State to require or not require Mrs. A to comply with the Financial Responsibility Law in the matter of obtaining insurance?

*ANSWER 3:*

No, see reason.

*REASON:*

29 M.R.S.A. § 783, subsection 5, paragraph F, provides that the requirements of furnishing proof of financial responsibility under § 783, subsection 2, do not apply to the owner or operator of a motor vehicle involved in an accident if the owner had in effect an automobile liability policy with respect to the motor vehicle; nor to such operator, if not the owner, if there was in effect a liability policy with respect to his operation of motor vehicles not owned by him, nor to such operator or owner if the liability of such operator or owner for damages is, in the judgment of the Secretary of State, covered by any other form of liability insurance policy.

Although Mrs. A did not have a liability insurance policy in effect at the time of the accident, her son did have a policy which covered his operation of her vehicle. Had the son's insurance company been called upon, it would have been responsible for damages by reason of his negligence. Although a general release was obtained by Mrs. A's husband, rather than through the insurance company, the question of payment of any damages by her was resolved by the settlement, and the Secretary of State could determine that Mrs. A's liability would have been covered by the son's policy.

Such determination having been made by the Secretary of State, subsection 5, paragraph F, provides that the security and financial responsibility requirements of subsection 2 do not apply. Question 2 is, therefore, answered in the affirmative.

Question 3 must be answered in the negative. Having in effect determined that the provisions of section 2 do not apply to Mrs. A, the Secretary of State then has no option remaining, and may not require her to obtain and maintain insurance.

LEON V. WALKER, JR.  
Assistant Attorney General

July 28, 1971  
Retirement

E. L. Walter, Executive Secretary

Retirement benefits from both Retirement System and from the Judiciary Retirement Plan

*SYLLABUS:*

A Justice of the Superior Court may not receive retirement benefits from both the Retirement System and the Retirement Plan for the Judiciary.

*FACTS:*

A Justice of the Superior Court has applied for membership in the State Retirement System seeking to establish credit for his service as a legislator from 1947 to 1958 and as a member of the Executive Council from 1959 to 1960.

*QUESTION:*

Whether a Justice of the Superior Court may receive retirement benefits from both the Retirement System and the Judiciary Plan.