

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

amendment or repeal of any rule or regulation that the agency is to submit the proposal to the Attorney General for approval as to form and legality. Thereafter, regulations are filed with the Secretary of State in the form prescribed by Title 5 M.R.S.A. § 2352.

We stress that the following of these provisions is not mandatory here. We suggest that these provisions would furnish a guideline for the necessary formality in promulgating the regulations. Of course, any regulations promulgated should be dated and signed by the Director and we would recommend that they be submitted to this office for approval as to form and legality in order to avoid any unnecessary enforcement difficulties.

3. *Who is authorized to enforce any motor vehicle regulations promulgated?*

With respect to enforcement of regulations promulgated by the Director, inspectors, when so designated by the Director, may have the authority to enforce rules and regulations. It appears that the Director does not have that enforcement authority. *Title 6 M.R.S.A. § 201.* (See also P.L. 1969, c. 590, § 7 repealing previous authority of Director.)

We note also chapter 404 of the Public Laws of 1971, which is not yet effective, provides in section 14 thereof that the Director shall have, in any part of the State, the same authority to enforce and make arrests for violation of any provision of chapters 1 to 15 or any rule or regulation promulgated thereunder as sheriffs, policemen and constables have in their respective jurisdictions. We add this as a caveat to our statement that the Director does not presently have that authority. This provision will become effective on September 23, 1971.

We have also examined Ch. 404 of the Public Laws of 1971 relating to changes in the aeronautics laws, which will become effective September 23, 1971, and with the exception of the above parenthetical comment, do not believe that any changes therein would work a change in the results herein reached.

JON R. DOYLE
Deputy Attorney General

August 11, 1971
Environmental Improvement Comm.

William R. Adams, Director

Use of proceeds from certain bond issues

SYLLABUS:

The proceeds of the bond issues authorized by Me. Priv. & Spec. Laws 1965, c. 235 and Me. Priv. & Spec. Laws 1969, c. 181 may not be used to finance the development of guidelines for administering Me. Public Laws 1971, c. 535.

FACTS:

Me. Public Laws 1971, c. 535, directs Environmental Improvement Commission, in concert with the Maine Land Use Regulation Commission, and after consultation with the State Planning Office, to adopt suitable zoning ordinances for the shoreland areas of those municipalities which, by June 30, 1973 have either failed to adopt such ordinances or have adopted ordinances which, in the judgment of the two Commissions, are lax and permissive.

QUESTION:

May the proceeds of the bond issues authorized by Me. Priv. & Spec. Laws 1965, c. 235 and Me. Priv. & Spec. Laws 1969, c. 181 be used to finance development of the criteria necessary to properly administer Me. Public Laws 1971, c. 535?

ANSWER:

No.

OPINION:

The 1965 bond issue, by its terms, is to raise funds “. . . to provide for the construction and equipment of pollution abatement facilities authorized under the Revised Statutes of 1954, chapter 79, section 7-A, and Acts amendatory thereof.” Me. Priv. & Spec. Laws 1965, c. 235, § 1. The development of criteria to administer a law enacted in 1971 does not come within these cited purposes.

The 1969 bond issue, by its terms, is to raise funds “. . . to provide for the planning, construction and equipment of pollution abatement facilities authorized under the Revised Statutes and Acts amendatory thereof.” In our opinion, the purpose for which you contemplate using the proceeds of this bond issue is not within the purposes envisioned by the Legislature. We cannot say that your contemplated purpose is planning, construction or equipment of a pollution abatement facility authorized by the Revised Statutes. In the context of the 1967 act, we construe the word “facilities” to include only inanimate items capable of being used in the reduction, treatment and disposal of waste, including, by the way of illustration and not by way of limitation, sewage treatment plants, industrial-municipal waste treatment plants, incinerators and cone burners.

ROBERT G. FULLER, JR.
Assistant Attorney General

August 18, 1971
Liquor Commission

Keith Ingraham, Chairman

P.L. 1971, Ch. 268, An Act Relating to Sale Price of Liquor

SYLLABUS:

Liquor licensees are entitled to a discount at the state store wherein prices have been reduced under the authority of Title 28 M.R.S.A., § 451, as amended.

FACTS:

The 105th Legislature enacted Ch. 268 of the Public Laws of 1971. It provides, by way of amendment to Title 28 M.R.S.A. § 451, that the Liquor Commission, with approval of the Commissioner of Finance and Administration, may reduce the price of liquor in one store. Similarly, there may be established at that store the price to which the licensee discount in Title 28 M.R.S.A. § 204 is to be applicable.