

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

1395, subparagraphs 3 and 4 as enacted by P.L. 1971, Chapter 207 cannot limit these expenditures by Congressional and Senatorial candidates.

In the last analysis, the United States Senate and the United States House of Representatives have the final word as to who shall sit in their halls. They clearly also have the power to set the procedural limitations and requirements for entering those halls. Inasmuch as they have ruled by statute in this area as to what the proper procedure shall be, in my opinion the field is now exclusively in the hands of the Federal law makers; and the State of Maine is not in a position to add or detract therefrom.

JAMES S. ERWIN
Attorney General

May 30, 1972
Insurance

Theodore T. Briggs, Deputy Commissioner

Insurance – Dealer Liability Insurance

SYLLABUS:

A policy which fails to provide insurance protection while the vehicle of a dealer, loaner or transporter is being operated by a customer with the vehicle bearing the registration plates of the vehicle dealer, loaner or transporter does not meet the requirements of 29 M.R.S.A. § 832.

FACTS:

An insurance company is issuing a vehicle insurance policy which has the following pertinent provision regarding limitation of liability:

“any other person or organization legally responsible for the use thereof only while such automobile is physically operated by the named insured or any such partner or paid employee or director or stockholder, or member of the household of the named insured or partner or paid employee or director or stockholder, provided the actual use of the automobile is by the named insured or with his permission.”

It further appears that the insurance company concedes that its policy provides no coverage when the vehicle is bearing plates of a dealer, loaner or transporter and is being operated by one of its customers.

QUESTION:

Does a vehicle insurance policy meet the requirement of 29 M.R.S.A. § 832 when the policy fails to provide insurance coverage while the vehicle is being operated by a customer with the vehicle bearing the plates of a dealer, loaner or transporter?

ANSWER:

No.

REASONS:

29 M.R.S.A. § 832 expressly required that a dealer, loaner or transporter of certain specified vehicles must obtain an insurance policy which insures “*against any legal liability . . . for personal injury or death . . . and against property damage . . . which injury, death or damage may result from or have been caused by the operation of any vehicle bearing such registration plates.*” (Emphasis supplied.)

Such language clearly encompasses operation by a customer of a vehicle bearing the dealer, loaner or transporter’s plates. The internal language sounds in all-inclusive terms, i.e., “against any legal liability.” The sole limitation is that the “injury, death or damage” must “result from or have been caused by the *operation of any vehicle bearing such registration plates.*” Thus, it is compulsory liability insurance to protect the public from injury or damage from the operation of one of the specified vehicles belonging to a dealer, loaner or transporter while the vehicle bears the registration plates of the dealer, loaner or transporter.

Furthermore, the essential nature of this statute demonstrates that the basic purpose of this statute was to provide broad public protection and not merely dealer protection. This statute contemplates the licensing of specified vehicles of a person engaged in the business of selling, loaning or transporting such vehicles with the obvious main purpose of making them available for operation by their customers. Since the purpose of such licensing is to facilitate *general business public* use, and not merely a private individual’s use, is clear beyond cavil that the Legislature was not concerned with *dealer operation* protection but with *public protection*.

Accordingly, both the obvious and dominant legislative purpose and the sweeping language of the statute establish that a policy which fails to provide insurance protection while the vehicle of a dealer, loaner or transporter is being operated by a customer with the vehicle bearing the registration plates of the dealer, loaner or transporter does *not* meet the requirements of 29 M.R.S.A. § 832.

CHARLES R. LAROUCHE
Assistant Attorney General

June 1, 1972
Education

Carroll R. McGary, Commissioner

Non-Eligibility of Theological Seminary to Receive Moneys from a State Tuition Equalization Fund.

SYLLABUS:

The Council on Higher Education for Maine is not legally authorized to approve grants to seminary students under the Act Establishing an Equalization Fund for Maine Students Entering Maine Private Colleges, which Act has as its purpose the preservation of private colleges, when such seminary: (1) issues degrees in theology, divinity or religious education; and (2) has as its corporate charter purpose the promotion of religion; and (3) which states that its primary purpose is to provide professional training