

MAINE STATE LEGISLATURE

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August 2, 1972

Donald Rogers, Inspector

Div. of State Fire Prevention

Charles R. Larouche, Assistant

Attorney General

Fire Prevention - Carnival Licenses

This replies to your July 17, 1972, memorandum request on this subject.

Your first question reads:

1. Can one carnival licensed by the State have a different carnival play its dates in Maine under their license?

This question is ambiguous and your memorandum presents no statement of facts which might clarify the question.

A copy of S.M.R.S.A. § 502, which is the current statute governing licensing of travelling shows is attached for your information. The pertinent portion reads:

"No travelling circus or traveling amusement show shall exhibit any parade, show or entertainment in this State without first paying a state license of \$500 in the case of a circus and \$250 in the case of amusement shows for each calendar year. Application for such license shall be made to the Insurance Commissioner and shall contain the name of the person or corporation owning or operating said traveling circus or said traveling amusement show and a statement of the proposed territory within the limits of said State and the names of the cities and towns in which said traveling circus or said traveling amusement show is to exhibit. No traveling circus or traveling amusement show shall exhibit any parade, show or entertainment in this State without first furnishing the Insurance Commissioner in an amount to be determined by him a certificate of public liability insurance. Upon receipt of such application and accompanied by such certificate of public liability insurance and upon the payment of \$500 or \$250, as the case may be, a license shall issue, conditioned that no traveling amusement show shall operate, within 30 miles of the fairgrounds of any agricultural society which has received a State of Maine stipend under Title 7, section 62 for at least 2 consecutive years next prior to the date of the license authorized in this section, during the 2 weeks immediately preceding or during the time of any annual exhibition thereof."

NOT A FORMAL OPINION

August 2, 1972

If your first question is intended to ask whether or not a traveling amusement show can assign its license to another such show, the answer to that question is negative. Such traveling amusement show must obtain its own license.

Your first question mentions "dates" relative to such licenses. I find nothing in the applicable statute that authorizes you to specify "dates" for performances by such shows. The only reference in the statute concerning "dates" is that your agency shall impose a condition upon that license, i.e.:

"... conditioned that no traveling amusement show shall operate, within 30 miles of the fairgrounds of any agricultural society which has received a State of Maine stipend under Title 7, section 62 for at least 2 consecutive years next prior to the date of the license authorized in this section, during the 2 weeks..."

Your second question reads:

2. If the licensed carnival provides some equipment to the second carnival, would this make any difference in the licensing?

This question is as ambiguous as the first question posed by you. If you mean thereby to ask whether or not carnival A can lawfully loan carnival B some equipment for use by carnival B pursuant to B's license from the State under 8 M.R.S.A. § 502, the answer is affirmative.

However, if you mean thereby to ask whether a loan of some equipment by licensed carnival A to unlicensed carnival B would obviate the need for a State license by carnival B under 8 M.R.S.A. § 502, the answer is negative. Regardless of who owns the equipment, the show operator must obtain his own license from the State.

If this memorandum does not answer the questions you may have had in mind, please resubmit with greater specificity.

CHARLES R. LAROCHE
Assistant Attorney General

CRL:mfe