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Statutory Distance and Time Limits as they Apply to Circuses under R.S. Title 8, Chapter 19, § 502.

QUESTION:

Do circuses as well as traveling amusement shows have to comply with the time and distance requirements set forth in 8 M.R.S.A. C. 19, § 502?

The sectin of 8 M.R.S.A. § 502 in question reads as follows:

> "...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, allicense 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 two weeks immediately preceding or during the time of any annual exhibit thereof." (emphasis mine)

By P.L. 1945, C. 249, eff. July 21, 1945, the language, "[C]onditioned that no traveling amusement show shall operate within 30 miles of the fairgrounds of any agricultural society during the two weeks immediately preceding or during the time of any annual exhibition thereof," were added to the then existing statute, R.S. 1945 C. 88, § 53. A search of the legislative journals for that year reveal no debate upon the bill.

Common sense and the principle of ejusdem generis would dictate that a circus is a particular type of amusement show and that when the legislature used the general term after the specific, that the general was limited thereby to mean circuses. However, the principle of ejusdem generis will not apply where the context of the statute in question clearly manifests a contrary intention.

In terms of an interest analysis it would seem that there should be no distinction drawn between "traveling amusement shows" and "circuses." Clearly the legislature was concerned with pro-

tecting the available audience to attend state fairs, and crowds would be drawn away from fairs by circuses as well as amusement shows. (Query as to whether this is a proper object for legislative concern.) Arguably, the legislature used the general term "traveling amusement show" in order to effectuate this purpose against shows of all types including circuses.

However, the face of the remaining portions of the statute run contra to any such contention. 8 M.R.S.A. C. 19 § 501 lists circuses and traveling amusement shows as two of many different types of activities for which a license is required. The third sentence of 8 M.R.S.A. C. 19 § 502, which is only two sentences prior to the language in question, establishes a license fee of $500 for circusesand $250 for (traveling) amusement shows plus establishing a clear distinction, at least in the mind of the draftee, between the two. One may only conclude, in light of this, that the legislature has distinguished the two and that the use of the term "traveling amusement show," without the use of the word circuses, is the use of a word mutually exclusive of the term "circus."

I would conclude that the intent of the legislature, as determined from the face of the statute as a whole, was to make the terms "circus" and "traveling amusement show" mutually exclusive and that therefore, circuses are not subject to the time and distance requirements of 8 M.R.S.A. C. 19 § 502.

JS/mf