

MAINE STATE LEGISLATURE

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MUFFLERS ON VINTAGE FIRE TRUCKS

SYLLABUS:

Cities and towns using vintage fire trucks must equip those trucks with appropriate mufflers unless: (1) No such mufflers are available on the market; or (2) The installation of mufflers would prevent the vintage trucks from effectively performing their duties by interfering with pumping operation or with some other essential function.

FACTS:

Some fire departments in this state have vintage fire trucks still in use that have never been equipped with mufflers. Also, some pumping systems on these trucks are connected to the exhaust system which is crucial to the operation of the pump. 29 M.R.S.A. §256 says: "All vehicles owned by the state and all vehicles owned by a municipal fire department or an organized volunteer fire department may be exempt from the provisions of this title as to registration and payment of registration fees, but shall not be exempt from the section requirements of Section 2122..." 29 M.R.S.A. §2122 says in part that vehicles shall be submitted to an inspection station "to determine the proper adjustment and sufficiency of the following required equipment: ...exhaust system..." 29 M.R.S.A. §1364 says: "No person shall operate a motor vehicle on any way unless the same be equipped at all times with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise." 29 M.R.S.A. §2127 describes air pollution control systems and says that no person shall operate a vehicle if the system is "in other than good working order." Several Maine fire chiefs have argued, in attempting to support their position that mufflers are not required for vintage fire trucks, that Section 1364, which concerns the need to have an adequate muffler that will prevent excessive noise, does not apply to an emergency vehicle such as the fire truck. They argue that noise is of no significance because the fire trucks are making an effort to attract the attention of the motoring public so that motorists will yield the right-of-way as they are required to do under 29 M.R.S.A. §946 when the emergency vehicle is responding to a call.

QUESTION:

Must municipal fire departments utilizing vintage fire trucks that have never been equipped with mufflers equip those vintage fire trucks with mufflers?

ANSWER:

Usually, except in the two circumstances mentioned in the Syllabus above.

REASONING:

The strict language of the statutes involving the need for inspection and mufflers requires that cities and towns using vintage fire trucks must equip those trucks with appropriate mufflers unless no such mufflers are available on the market, or unless the installation of mufflers would prevent the vintage trucks from effectively performing their duties by interfering with pumping operations or some other essential function. 29 M.R.S.A. §256 expressly makes fire department vehicles subject to the inspection laws. 29 M.R.S.A. §1364 does not on its face exempt anyone or any vehicle from the "adequate muffler" requirements.

However, this clear language does not mean that there can be no exceptions and there is sufficient precedent for the two narrow exceptions outlined above.

For example, the Maine Supreme Judicial Court held in McCarthy v. Mason, 132 Me. 347 (1934) that fire department vehicles responding to an emergency call are exempt from the basic speed law, 29 M.R.S.A. §1252. The law court noted that Section 1252 on its face does not exempt any person or any vehicle from the speed laws. But the law court reasoned that since the Legislature wants firefighters to perform their duties, and since the Legislature must have recognized that firefighters could not perform emergency duties effectively if they had to obey speed limits, then the Legislature could not have intended the speed laws to apply to fire department vehicles when responding to an emergency.

The same reasoning would apply here. If the cities and towns, because of limited financial resources, must use vintage vehicles; and if there are no mufflers available for these vehicles or such mufflers would interfere with effective pumping operation; then the Legislature must have intended that the desire for adequate mufflers would have to give way to the absolute need for the firefighters to perform their duties. However, it should be emphasized that these exceptions are very narrow. If there are mufflers on the market that will fit these vintage trucks, then they must be bought and attached.

This is especially so on those trucks where the pumping system has no connection with the exhaust system.

The argument that Section 1364 does not apply because fire trucks are trying to create noise to warn other vehicles to yield the right-of-way is poor. In the first place, fire trucks are equipped with sirens to achieve this purpose. Secondly, fire trucks are not always traveling to fires. Sometimes they are coming back from fires. On these latter occasions, they do not have the right-of-way and there is a legitimate state interest in insuring that the trucks make as little noise as possible.

The fact that fire department vehicles are "emergency" vehicles has no relationship to the inspection standards. 29 M.R.S.A. §946 deals only with the right-of-way. Section 946 grants no other privileges to the vehicles listed in that section.

The air pollution statute, 29 M.R.S.A. §2127, does not affect vintage fire trucks. That statute applies only when the vehicle comes equipped with air pollution equipment. The statute would not apply to vintage fire trucks.

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