

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date November 22, 1972

Joseph T. Edgar

Dept. Secretary of State

From Malcolm L. Lyons, Asst. Atty Gen.

Dept. Attorney General

Subject Service of Suspension Notification Pursuant to § 29 M.R.S.A. 2241 (3)

SYLLABUS:

29 M.R.S.A. §2241 (3) provides that when notification is refused or undeliverable for any other reason, notification of the suspension or revocation of any certificate of registration or any license issued to any person to operate a motor vehicle may be served upon such person by the sheriff of the county in which such person resides or by any of his deputies. The Secretary of State may authorize personnel within the Motor Vehicle Division who are not sheriffs or deputy sheriffs to serve such notice of revocation or suspension.

FACTS:

As stated in the Syllabus.

QUESTION:

Does the use of the verb "may" in 29 M.R.S.A. §2241 (3) with regard to service of notice of license suspension or revocation by a sheriff or his deputies preclude such service by the Secretary of State or one of his authorized agents?

ANSWER:

No.

REASONS:

There are numerous cases dealing with the interpretation of the verb "may" holding absent any clear legislative expression of intent or policy, the word "may" is generally held to be permissive. In In Re Thaxter, 154 Me. 219, the Court said, "Attention is at once directed to the use of the word "may" ordinarily permissive in its connotation."

In Collins v. State, 161 Me. 445 1965, the Court quoted with approval the following language, "In general, the word 'may' used in statutes, would be given ordinary meaning unless it would manifestly defeat the object of the statute, and when used in a statute is permissive, discretionary, and not mandatory."

The verb "may" has been construed to mean "shall," but this is done only when the obvious meaning of the statute is to command and not simply to permit a particular thing to be done. See State v. George Sweetser

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53 Me. 438 (1866). A reading of the statute in its entirety would seem to indicate that the intent of the legislature was that the person under suspension receive reasonable notification.

29 M.R.S.A. §2241, subparagraph 3, provides that notice of revocation or suspension shall be sufficient if sent by registered or certified mail, return receipt requested with instructions to deliver to addressee only. The statute then details the procedure that may be followed when the registered or certified mail is returned receipt unsigned. The statute states, "Notification of the suspension or revocation may be served on such person by the sheriff of the county in which such person resides or by any of his deputies." Since the statute clearly states that notification is sufficient if sent by registered or certified mail, return receipt requested, delivered to addressee only, and the sheriff may serve notice of the suspension, it would seem logical that the purpose of the legislation is to insure reasonable notification and not to require that service of such notice be done exclusively by the sheriff or his deputies. Therefore, if notice is served by somebody other than a sheriff, and the person so served receives reasonable and adequate notification, it is very difficult to argue that this violates the legislative intent in any way.

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