

# MAINE STATE LEGISLATURE

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June 4, 1973

Honorable Kenneth M. Curtis  
Governor, State of Maine  
State House  
Augusta, Maine 04330

Dear Governor Curtis:

This replies to your memorandum of May 30, 1973, concerning the personnel height and weight requirements established by regulations adopted by the Department of Public Safety, the Department of Inland Fisheries & Game, and the Department of Sea & Shore Fisheries, and approved by the State Personnel Board.

I understand your question to be whether or not the State can constitutionally limit the eligibility of persons for employment as Troopers, Game Wardens, and Coastal Wardens to those who meet certain height and weight criteria. The answer to that question is affirmative.

The State can adopt statutes and regulations which distinguish among persons. The Equal Protection Clause of the Fourteenth Amendment, United States Constitution, is offended only when the classification "... is without any reasonable basis and therefore is purely arbitrary." Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78; also see McGowan v. Maryland, 366 U.S. 420, 426; Geosaert v. Cleary, 335 U.S. 464, 465; Williamson v. Lee Optical Co., 348 U.S. 483; Tigner v. Texas, 310 U.S. 141, 147, and Dandridge v. Williams, 397 U.S. 471.

Each of the positions involved in your question includes law enforcement duties. It is common knowledge that such duties do, on occasion, require considerable physical capacity. It would also seem to be common knowledge that the seeming possession of substantial physical capacity is a helpful attribute for a law enforcement official in that it tends to obviate the need to employ physical force.

The regulatory objective in prescribing height and weight criteria for such positions would seem to be to assure obtaining persons who can effectively carry out those aspects of their law enforcement duties which involve actual and potential physical performance. The objective is legitimate and the method adopted seems to be reasonably related to the accomplishment of that purpose.

Honorable Kenneth M. Curtis

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Your question appears to be limited to the general principle of whether or not height and weight criteria can constitute an appropriate classification for eligibility to become a Trooper, Game Warden or Coastal Warden. The foregoing comments answer that question. However, it should be observed that the particular regulation which prescribes the applicable height and weight criteria for a specific position should be individually assessed to assure that it conforms with the principle discussed above.

If I can be of any further aid to you in this matter, please advise me.

Yours very truly,

JON A. LUND  
Attorney General

JAL:mfe