

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

*JAL* *Jub* *yes* *Not found*  
April 25, 1974

Kenneth M. Curtis, Governor

Executive

Jon A. Lund, Attorney General

Attorney General

Authority to make arrests by licensees and/or persons employed under 32 M.R.S.A. §3806.

**SYLLABUS:**

(1) A person licensed pursuant to 32 M.R.S.A. §3806 by virtue of 32 M.R.S.A. §3804-A has the power and authority of a sheriff or police officer to make arrests in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104.

(2) A person employed as a guard by a licensed watch, guard or patrol agency does not have the power and authority of a sheriff or police officer to make arrests in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104.

**FACTS:**

You have requested the Opinion of this Office as to whether persons granted licenses pursuant to 32 M.R.S.A. §3806 and/or persons employed as guards by a licensed watch, guard or patrol agency have the power and authority of sheriffs or police officers to make arrests in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104.

**QUESTIONS AND ANSWERS:**

(1) Does a person granted a license pursuant to 32 M.R.S.A. §3806 have the power and authority of a sheriff or police officer to make arrests in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104?

Yes.

(2) Does a person employed as a guard by a licensed "watch, guard or patrol agency" have the power and authority of a sheriff or police officer to make arrests in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104?

No.

Kenneth M. Curtis, Governor  
April 25, 1974  
Page Two.

REASONS:

(1) Licensed Persons

32 M.R.S.A. §3804-A reads as follows:

"Nothing in this chapter shall be construed to confer on any person licensed under this chapter any of the power and authority of sheriffs or police officers, except in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104."

This section confers on any person licensed under chapter 55-A the power and authority of sheriffs or police officers (including the right to make arrests) in cases of felony and offenses under Title 17, chapters 61, 73, 113 and 115 and Title 17, section 3104.

We recognize, of course, that although the content of 32 M.R.S.A. §3804-A is essentially the same as that found in previous enactments, there is absent from chapter 55-A an additional section found in all statutory predecessors which in specific terms grants the licensee authority to arrest for the enumerated offenses. (See for example P.L. 1885, c. 357, §2, and 32 M.R.S.A. §3802). However, we do not feel the presence of such an additional section is necessary. The language of 32 M.R.S.A. §3804-A standing alone grants to licensed persons both the power and authority of sheriffs or police officers in cases of felony and the other enumerated crimes. And it appears clear that such was the intent of the Legislature.

(2) Person Employed as a Guard

32 M.R.S.A. §3804-A applies solely to persons licensed under chapter 55-A. Therefore, a guard employed by a licensed "watch, guard or patrol agency" is not within the classification of a licensed person and has no power or authority pursuant to the terms of 32 M.R.S.A. §3804-A. Finally, we know of no other provision from which such power could be arguably conferred upon such an unlicensed person.

---

JON A. LUND  
Attorney General

JAL/jo/CKL