

MAINE STATE LEGISLATURE

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Asa Gordon, Deputy Commissioner

Educational & Cultural Serv.

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Attorney General

School Bus Safety Requirements

NOTE: The term "School Bus Law", as used below, refers to Chapter 780, Public Laws of 1973. All sections cited below are taken from Title 29.

You have asked three questions concerning the School Bus Law.

I. You have asked, first, whether a vehicle which contains some seats which are not in a plain view lateral location (non-conforming seating) may, after Sept. 1, 1977, be used as a school bus as long as proper precautions are taken to insure that school children only sit in those seats which are in a plain view lateral location (conforming seating). The answer is that such buses may be so used. The Commissioner of Educational and Cultural Services has authority to issue any binding regulations concerning construction, equipment, and/or operation of school buses which would insure, to his satisfaction, that school children would not be able to sit in any existing non-conforming seating.

II. Your second question asks whether a transit district bus carrying both school children and regular passengers meets the definition of a school bus and thus must meet all the requirements of school buses.

If a bus is involved in a formalized program of transportation of school children to and from school then the fact that regular passengers might be permitted to ride the bus along with school children does not take it out of the category of "school bus" and such a bus must meet all the requirements imposed upon school buses by the School Bus Law.

Under § 2020, "school buses which are operated by a mass transit authority. . . , while transporting school children, shall comply with all of the requirements of school buses, except that they shall be exempted from the vehicle color requirement."

Section 2011(2) defines the term school bus as including "every motor vehicle with a carrying capacity of 10 or more passengers whether publicly or privately owned which is used to transport school children to and from school or to and from school activities for which such transportation is approved by the appropriate school authorities."

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This definition covers any vehicle, with the specified minimum carrying capacity, which is being used to transport school children to and from school as part of a formalized program of school transportation regardless of the fact that the vehicle may be simultaneously performing some other unrelated function, such as picking up and discharging regular passengers.

There is no indication in the School Bus Law of any legislative intent to exclude any group of school children from being protected by the safeguards therein. All indications are, in fact, to the contrary.

The School Bus Law repealed former 29 M.R.S.A. §§ 2011-2014. Former § 2011 read in part as follows: "these provisions [requiring 'school bus' signs] shall not apply to public buses while transporting school children together with regular passengers." No such exemption appears in the School Bus Law and this failure to reenact a similar exemption indicates that no such exemption was intended.

Further, an effort was made to amend the School Bus Law to "allow mass transit vehicles currently transporting children to schools along with other passengers where necessary in large cities to continue this practice without causing confusion to motorists and passengers." Statement of Fact accompanying Senate Amendment B (S-366).

This amendment, after being originally passed by the Senate, was defeated in the House and the Senate finally concurred in the deletion of this amendment. The action taken by the House in rejecting House Amendment A was passed.

I am aware of the Statement of Fact appearing on L.D. 2134 (The School Bus Law) which reads as follows:

"The purpose of this Act is to bring Maine statutes into conformance, as nearly as possible, with Federal Highway Program Standard No. 17 entitled 'Pupil Transportation Safety'"

Standard No. 17 "establishes minimum requirements for a State highway safety program" . . . " (Emphasis mine). Going beyond these minimum requirements, as has been done in the case of the definition of "school bus", is in no way inconsistent with a purpose to conform to Standard No. 17.

The particular fact situation to which you have referred in your memorandum involves the City of Portland. The City purchases special tickets from the Greater Portland Transit District for use by students who live more than a mile away from school. These tickets are marked to differentiate them from regular tickets. The school tickets can be used on certain regular route buses during school hours and on buses which are known as "school extras" and which follow a regular route except that they deviate from this route in order to stop at a school to discharge or take on school children. Regular

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passengers may ride both regular route buses and "school extras."

The words, "used to transport school children to and from school" appearing in § 2011 imply some type of formalized arrangement between school authorities and the operators of the bus line and the fact that a school child might board a bus and purchase a regular ticket and might use this bus as a means of getting to or from school does not, by itself, constitute that bus as a "school bus". However, any bus which will accept the identifiable special school tickets which have been purchased by the City of Portland is a "school bus" and must comply with the School Bus Law, except with respect to the color requirement. These buses are involved in a formalized arrangement for the transportation of school children to and from school.

III. Finally, you have asked whether flashing red lights must be used on buses carrying both students and regular passengers when children are picked up or let off. As indicated in the answer to question II, such buses are subject to all the requirements placed upon "school buses", except for the color requirements. However, the School Bus Law does not specify when the flashing lights are to be operated. Section 2012(1)(D) states only that school buses "shall be equipped with a system of signal lamps that conform to the school bus requirements as approved by the Commissioner of Educational and Cultural Services."

The specifics of type, placement, and operation of the signals are thus subject to control by Department rule and regulation.

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