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February 20, 1975

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Scope of Arrest Authority in Use of Blue Auxiliary Lights for State
Liquor Inspectors

SYLLABUS:

The State Liquor Inspectors, in their capacity as inspectors, are not authorized to arrest a person who is operating a motor vehicle under the influence of alcohol in violation of 29 M.R.S.A. §1312; nor are liquor inspectors authorized to have blue lights and sirens on their vehicles.

FACTS:

Robert Graham, Chief of the Liquor Enforcement Bureau, sent a memorandum to this Office detailing his uncertainty as to whether or not liquor inspectors had authority to make an arrest for operating under the influence of liquor (hereafter referred to as OUI). Second, he was concerned with the need for liquor inspectors to stop motor vehicles without the aid of blue lights and sirens.

QUESTION 1:

Does a liquor inspector have the authority to arrest a person who is operating a motor vehicle under the influence of alcohol in violations of 29 M.R.S.A. §1312?

ANSWER:

No.

DISCUSSION:

The powers of the State Liquor Inspectors are defined in 28 M.R.S.A. §55(14):

"[Liquor Inspectors] shall have the same powers and duties throughout the several counties of the State as sheriffs have in their respective

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counties relating to liquor. Their powers and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this title, to arrest for violations of Title 17, Chapter 69, and Title 17, Sec. 3953, to arrest for violations of Title 29, Sec. 2182, to arrest for impersonation of or interference with Liquor Inspectors, and to arrest for disturbances of the peace in the pursuance of their duties relating to liquor under this title and to serve all processes necessary for and pertaining to enforcement of any of the provisions of this title. All complaints, records and reports of the enforcement division created by this section relating to licensing and enforcement of liquor laws, rules and regulations are declared to be confidential." (Emphasis supplied)

The clause giving liquor inspectors authority "relating to liquor" is followed by a specific listing of powers included therein. It was the intent of the legislature to confine the inspectors' powers to the type enumerated.

When the enumeration in 28 M.R.S.A. §55(14) is examined, it is seen that inspectors' authority is geared to the enforcement of Title 28. Inspectors can conduct inquiries and make arrests regarding violations by liquor licensees in the sale, purchase, and handling (of liquor). They can arrest for improper use of identification. (29 M.R.S.A. §2182) They can arrest for disturbances of the peace relating to their duties under Title 28. Nothing in the enumeration pertains to the enforcement of motor vehicle laws such as the OUI statute.

The legislature intended that the OUI statute be regarded as a law relating to motor vehicles rather than liquor. Its violation can only be discovered through the general enforcement of the motor vehicle laws, such as stop sign violations, speeding, illegal turns, etc. It would be impossible to effectively enforce the OUI statute without having authority to enforce the motor vehicle law generally. It is clear that the legislature clearly

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did not intend to have liquor inspectors involved with the enforcement of motor vehicle laws and that includes the OUI statute.

QUESTION II:

May the vehicle supplied by the State to the Bureau of Liquor Enforcement be equipped with auxiliary lights or sirens?

ANSWER:

No.

DISCUSSION:

29 M.R.S.A. §1362 and §1368, respectively, prohibit the installation of sirens or auxiliary lights on all but certain listed classes of motor vehicles. The vehicles supplied to the liquor inspectors do not fall within the classes of vehicles given special dispensation. Insofar as the legislature has seen fit to deal with the matter of sirens and lights with such specific legislation, we are precluded from finding an implied right to equip vehicles with sirens and lights from such statutes as Title 28 M.R.S.A. §1155 which gives the Liquor Inspectors the right to stop motor vehicles if they have probable cause to believe a violation of the liquor laws has taken place. This interpretation is supported by the fact that the same legislature that passed 28 M.R.S.A. §1155 rejected amendments to 29 M.R.S.A. §1362 and §1368 which would have allowed liquor inspectors' vehicles to carry sirens and auxiliary lights.

RSR/mp