

# 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**

January 2, 1976

Linwood Ross, Deputy Secretary of State

Motor Vehicle Division

S. Kirk Studstrup, Assistant

Attorney General

Alteration of Motor Vehicle Title Applications

Your memorandum of December 29, 1975, requested our opinion on the legal ramifications of a proposed program for standardizing information in driver license files and vehicle title applications. Further information indicates that the Motor Vehicle Division wishes to make certain that in the future the names and dates of birth of vehicle owners as stated on their title applications is exactly the same as the data stated on their driver licenses. This standardization of information would allow "marriage" of the two information banks and permit easy access by computer to all data for a given individual. At the present time, there are frequent differences in the spelling or style of an individual's name or in his date of birth, which prevent this ready data retrieval.

The standardization which is sought could be accomplished by changing the information on either the driver license or the title application so that they conform to each other. You have asked, "What legal ramifications are involved if the Motor Vehicle Division alters an application and issues a Title on a name other than that originally appearing on the application?" It is assumed that this means a manual alteration of the application by personnel of the Motor Vehicle Division without prior confirmation of such change by the applicant. The answer to your question is that such alteration is beyond the scope of the Secretary's authority and could create other legal conflicts.

It is quite clear that the Secretary of State has the authority to return an application for title for correction by the applicant, or for additional information. The governing statute is the "Maine Motor Vehicle Certificate of Title and Anti-theft Act." 29 M.R.S.A. § 2350 et seq. The Secretary is specifically authorized by the Act to prescribe and provide the necessary forms, make investigations, adopt reasonable rules, and assign new identification numbers for vehicles which have none and issue a new title. 29 M.R.S.A. § 2353. The application shall contain, among other information, the name and address of the owner and any other data the Secretary prescribes, which would include date of birth. 29 M.R.S.A. § 2367, 1. The Act specifies the action which the Secretary shall take on these applications as follows:

Linwood Ross, Deputy Secretary of State

Page 2

January 2, 1976

"The Secretary of State shall file each application received and when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle." 29 M.R.S.A. § 2366, 1.  
(emphasis provided)

If the Secretary has reasonable ground to believe that the application fails to provide the necessary information, he shall refuse issuance of a certificate of title. 29 M.R.S.A. § 2370. Therefore, the Secretary has broad authority for specifying the information to be included in the application and for returning any application which he reasonably believes requires correction.

Although the Secretary has the broad powers noted above, he is not authorized by the statute to unilaterally make changes to filed applications in the manner proposed. The Secretary's motor vehicle title responsibilities are not among his constitutionally mandated duties. Art. V, Part Third, Sections 2 through 4, Constitution of Maine. These responsibilities are legislatively imposed, and, as a general rule, public officers only have those powers and authorities which are clearly conferred by statute or necessarily implied from those powers. 67 C.J.S., Officers, § 102, p. 366. Unilateral alteration of a filed document would not be a necessarily implied power in this sense. It follows that the proposed method of standardizing the data sources is outside the scope of the Secretary's authority.

Even if the Secretary had the authority to unilaterally make the changes to applications as proposed, there are other considerations of a legal nature which would dictate a different approach to the problem. First, there may be other documents, such as contracts, related to the sale of a vehicle which would then use a different name. A good example is documents relating to financing, such as the installment contract within the purview of 9 M.R.S.A. § 3481. Further, although Maine is now a "title state," filing of U.C.C. financing statements with other filing officers pursuant to 11 M.R.S.A. § 9-401 is not prohibited, and such statements, if filed, should have the same names as appear on the title. Second, the present form used for application for certificate of title (form MVT-2) purports to be certified by the owner that all liens have been listed and instructs the owner to sign his name as stated in the application. A change in the stated name by the Secretary might cause the certification to be questioned. Finally, it is possible that two people with very similar names might have been born on the same date and vice versa. It would seem preferable to allow

Linwood Ross, Deputy Secretary of State

Page 3

January 2, 1976

the applicant to make any needed corrections himself, to avoid the confusion and possible legal problems which could result from such situation.

In light of the foregoing, it is suggested that a different approach to standardizing data forms should be used. Utilization of the Secretary's powers to specify the information to be provided and return questionable applications for correction would be one alternative which would be legally sound.

---

S. KIRK STUDSTRUP  
Assistant Attorney General

SKS:mfe