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Advertising: Illuminated Ads on Motor Vehicles

29 M.R.S.A. § 1374
32 M.R.S.A. § 2712

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October 8, 1976

Honorable Maynard G. Conners
Franklin
Maine 04634

Dear Representative Conners:

This letter responds to your oral request for an opinion from this office on the following question:

"In light of the impending political campaigns, would advertisements for individual candidates be included within the coverage of 29 M.R.S.A. §1374, which prohibits having illuminated advertisements on motor vehicles?"

The answer to this question is negative.

Prior to your request for an opinion, this office had informally advised the Chief Law Enforcement Officer of Jonesport to the effect that an illuminated political sign affixed to a motor vehicle operated on a public way would not fall within the prohibition of 29 M.R.S.A. §1374. We have reviewed this advice and reaffirm its correctness. The prohibition of that section applies only to "advertisements" as the term is defined in 32 M.R.S.A. §2712, as follows:

"1. Advertisement. 'Advertisement' shall mean any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted, displayed or exposed, in whole or in part, out-of-doors to public view and which invites, draws attention to, solicits the patronage of the public to any goods, merchandise, property, business services, entertainment or amusement that is manufactured, produced, bought, sold, conducted, furnished or dealt in by any person, firm or corporation."

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The foregoing definition is clear and unambiguous, and is oriented towards commercial enterprise rather than political campaigning.

In construing statutes one looks first to the specific language of the statute in order to determine the legislative intent, and, if the language is plain and free from ambiguity, one would normally not inquire further. City of Lewiston v. Androscoggin County, 151 Me. 457, (1956). Title 29 M.R.S.A. §1374 specifically refers to 32 M.R.S.A. §2712 to determine the definition of "advertisement". Accordingly, 29 M.R.S.A. §1374 must be interpreted to apply only to those items enumerated in that definition, even though the definition was originally intended to apply to legislation on a different subject. Since §2712 clearly does not include political campaign advertisements, it is our opinion that such illuminated advertisements would not be included within the prohibition.

Even if the wording of the sections noted above did contain some ambiguity, the legislative history of record for this section would not indicate a contrary opinion. Title 29 M.R.S.A. §1374 was enacted by P. L. 1973, c. 482 (H.P. 1460, L.D. 1885; as amended by Committee Amendment "A", H-457). The Statement of Fact for L. D. 1885, before amendment of the final sentence of that section by the Committee, contained a simple statement of fact which read: "The purpose of this bill is to prohibit certain illuminated advertisements on motor vehicles." (Emphasis added). Therefore, even before the bill was amended to exempt illuminated informational signs for public carriers, the statement of fact did not reveal an intent to ban all illuminated advertisements.

I believe the foregoing opinion answers the question which you have posed. If we may be of assistance in any other way, please let us know.

Sincerely,



S. KIRK STUDSTRUP
Assistant Attorney General

SKS/bls