

# MAINE STATE LEGISLATURE

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Minimum wage Law: Volunteer Firemen  
26 M.R.S.A. § 663

## STATE OF MAINE

Inter-Departmental Memorandum Date December 3, 1976

To Senator Elmer Berry

Dept. \_\_\_\_\_

From Donald J. Gasink, Assistant Att'y Gen'l.

Dept. Employment Security Commission

Subject Volunteer Firemen

Your request for an opinion, in light of Chapter 385, of P.L. 1967, and Chapter 680, P.L. 1973, was as follows:

Are members of volunteer fire departments subject to the state minimum wage law?

Answer: No, members of volunteer fire departments are not subject to the state minimum wage law, 26 M.R.S.A. § 661, et seq.

Discussion: Neither Chapter 385, P.L. 1967, nor Chapter 680, P.L. 1973 (Special Session), changed the first sentence in subsection 7 of § 663 in Title 26 of the Maine Revised Statutes, which provides as follows:

"Members of municipal fire fighting departments, other than volunteer or call-departments, who are paid salaries or regular wages, are deemed to be employees within the meaning of this section and are covered by this subchapter...."

The phrase "who are paid salaries or regular wages" is to be read to modify "Members of municipal fire fighting departments," since volunteer or call-departments are not paid salaries or regular wages. With that reading of the first sentence in mind, it is clear that members of volunteer departments are not deemed to be employees within the minimum wage law, and were intended to be excluded by subsection 7 from the minimum wage law's definition of "employee" in subsection 3 of § 663.

Chapter 385 of P.L. 1967 added the present second sentence of subsection 7 of § 663, but that change is not related to the present issue. Chapter 680 of P.L. 1973 (Special Session) added a new Chapter to Title 30 of the Maine Revised Statutes, but that enactment did not change the minimum wage provisions in Title 26 and instead dealt with other issues of support and maintenance of fire protection organizations. Since Chapter 680 did not directly amend subsection 7 of § 663, it should not be construed to amend the subsection indirectly.