

MAINE STATE LEGISLATURE

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Legislature's Reimbursement For Commuting
Legislature; Death Benefits
5 M.R.S.A. § 1125

STATE OF MAINE

Inter-Departmental Memorandum Date February 22, 1977

To W. G. Blodgett, Executive Director Dept. Maine State Retirement System
From Donald G. Alexander, Deputy Dept. Attorney General
Subject Application of 5 M.R.S.A. § 1125 to Legislators Commuting to Legislative Session

This responds to your request for an opinion regarding the question of whether benefits under 5 M.R.S.A. § 1125-1-A would apply to a situation where a Legislator's death occurred while traveling from Bangor to Augusta on a Sunday or a Monday preceding the week's legislative session.

We answer this question in the affirmative.

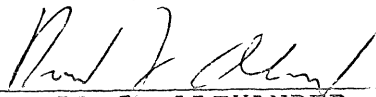
DISCUSSION:

Normally, injuries sustained commuting to and from work do not qualify for application of the accidental death benefits provision of § 1125. This is so because it is assumed that persons may choose to live anywhere they desire and getting from their domicile to their place of work is a personal matter. For that reason, employees normally are not compensated for commuting to and from work and may not deduct such expenses from their income for tax purposes. However, there are two reasons why this general doctrine does not apply to Legislators.

First, the provisions of 3 M.R.S.A. § 2 provide for compensation of Legislators for travel expenses from their homes to legislative sessions. This would indicate a decision by the Legislature that travel from home to a legislative session is indeed something within the course of business of the Legislator.

Second, the Constitution, Article IV, Part First, Section 4, applied to the Senate by the provisions of Article IV, Part First, Section 6, requires that all Legislators reside in their districts during the term of office. Thus, they do not have the normally expected discretion regarding place of domicile.

Accordingly, travel of Legislators from their homes to legislative sessions is properly considered within the line of duty for purposes of application of the provisions of 5 M.R.S.A. § 1125.


DONALD G. ALEXANDER
Deputy Attorney General

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