

# 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)

Inter-Departmental Memorandum Date March 4, 1977

Sgt. Paul Meservey, Director

Dept. Traffic Div., Maine State Police

From Michael Seitzinger, Ass't A.G.

Dept. Attorney General

Subject Use of Dealer Plates on Wreckers

---

---

A memorandum from Assistant Attorney General Leon Walker to Deputy Secretary of State Linwood Ross, dated August 12, 1976, indicated that a motor vehicle dealer may not use his dealer plate on his wrecker to conduct a wrecker service for hire. Your office has asked several questions regarding the application of this opinion. Specifically, you have asked whether a motor vehicle dealer may use his dealer plate on his wrecker if the wrecker is used

(1) on service calls to disabled vehicles which he was to tow to his place of business, if necessary, and for which he charged a reasonable service call fee for the wrecker, or

(2) on calls to accident scenes where he would take any vehicle disabled to his place of business and for which he would charge a fee for wrecker service, or

(3) on service calls or accident scene calls where the dealer's wrecker delivers any vehicle from the location of the breakdown or accident to someone else's place of business or to the owner's home, for which he would charge a wrecker service fee.

For the reasons stated below, it is my opinion that in situations (1) and (2) the dealer may use his dealer plate on his wrecker, but that in situation (3) he may not operate his wrecker with his dealer plate.

29 M.R.S.A. §354 authorizes dealers of new and used motor vehicles to use dealer registration plates on their vehicles and specifies the conditions under which the plates may be used. Subsection 3 of §354 provides:

"3. Wreckers. Anyone issued vehicle dealer or equipment dealer registration plates shall have the right to operate his motor vehicle wrecker in connection with his business on such dealer plates." (Emphasis added).

The only condition, therefore, placed upon the use of a dealer plate on a wrecker is that the wrecker be operated in connection with the dealer's business.

To ascertain what activities are connected with the business of a motor vehicle dealer for purposes of §354(3), reference should first be made to 29 M.R.S.A. §341(1) which defines a "dealer" as a "person engaged in the business of buying, selling, offering to negotiate a sale or exchanging vehicles. . . ." 29 M.R.S.A. §341(3) provides additional insight into what constitutes the business of a motor vehicle dealer. That subsection provides in pertinent part:

"'Established place of business' means a permanent, enclosed commercial building. . . . at which the business of a motor vehicle dealer, including the display and repair of motor vehicles, may be lawfully carried on. . . ." (Emphasis added)

It is clear from §341(3) that the business of a motor vehicle dealer includes the repair of motor vehicles by the dealer. Consequently, a dealer may use his dealer plate on his wrecker to bring vehicles to his place of business for repair. The fact that he may charge a fee for the towing service does not alter this result. Nor is a different result required because the vehicle which is being towed was not a vehicle sold by the dealer. Nothing in the language, express or implied, of §341(3) suggests that "repair" will constitute the business of a dealer only when the vehicle being repaired has been sold, or is intended for sale, by the dealer.

On the other hand a dealer may not conduct a general wrecker service on his dealer plate. This is because the business of a motor vehicle dealer does not encompass, by definition or as a necessary incident, such a service. Thus, if the owner of an automobile body repair shop contacts a dealer and asks that the dealer tow a disabled vehicle to the body repair shop, the dealer may not use his dealer plates on the wrecker when he performs this service. The same result would obtain if the requesting party was the owner of the car and the destination was the owner's home. The acceptance or non-acceptance of a fee for the towing service does not alter the result. The essential consideration is that the vehicles being towed are not being taken to the dealer's place of business for repair and therefore the towing of them is not in "connection with [the dealer's] business." 29 M.R.S.A. §354(3).

Finally, with respect to situation (1), the fact that it became unnecessary to tow a disabled vehicle to the dealer's place of business for repair does not mean that the dealer acted unlawfully in using his dealer plate on his wrecker in going to the scene. A reasonable expectation by the dealer that the disabled vehicle would be repaired by the dealer would suffice to authorize use of dealer plates on the wrecker.

---

MICHAEL D. SEITZINGER  
Assistant Attorney General

MDS/rh