

MAINE STATE LEGISLATURE

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*Contracts Required by State
Me. Const Art I Section 11.*

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

April 6, 1977

James Mundy
Assistant to the Speaker
of the House
House of Representatives
Augusta, Maine

Dear Mr. Mundy:

This responds to your request for an opinion as to the constitutionality of a certain provision of draft legislation relating to measurement of wood. A copy of that draft legislation is attached.

Your specific question was whether the provisions of Section 2363-2 of the draft legislation which authorize the State Sealer of Weights and Measures to publish a standard contract form to be used in all transactions between paper companies and wood suppliers relating to purchase of wood create any constitutional problem.

Our review of the law indicates no serious constitutional problem with the proposed section 2362-2. The effect of the law is to establish a state-wide system of regulation of wood purchase transactions between paper companies and suppliers. As part of that system of regulation it would be perfectly proper to specify the form of contract to be used. There is no problem with Article I, Section 11, of the Maine Constitution which prohibits enactment of laws impairing obligation of contracts. The effect of Section 11 is to prohibit enactment of laws impairing obligation of existing contracts. It in no way prohibits specifying the form of future contracts in regulated industries.* With the proposed legislation there is no specific sanction imposed for failure to use the form contract, the only apparent sanction would be the unavailability of the protection of the law to one who did not use the specified form.

* Maine law presently specifies the form of fire insurance contracts, 24-A M.R.S.A. § 3002.

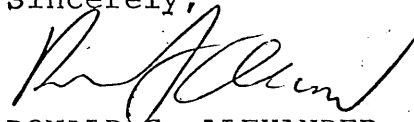
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We would caution that it may be necessary to make revisions in the proposed legislation to avoid any problem of equal protection in application. Thus, we understand the intent of the law is to regulate sales of pulpwood to paper companies. If this is the intent, it may be appropriate to further specify the purposes for which the wood is intended to be used in defining "wood" in section 2361-1. It may also be advisable to define the term "paper company" which appears in section 2363-2. Further specification in these areas would be important to indicate that transactions involving sale of wood for reprocessing as lumber, plywood or other wood products are not regulated and that sales of wood for use as fuel are not regulated. It is my understanding that some "paper companies," such as, for example, Diamond International, may use wood they purchase for some of these other uses. Thus, the use of the word and the term "paper companies" need to be more specifically defined to indicate the scope of regulation intended.

In addition, arguments that the regulation violates the Equal Protection Clause by singling out a specific transaction with specific types of companies could be reduced by adding a declaration of legislative findings and purposes which specifies the particular problems in pulpwood sales to paper companies and why legislative regulation in this area is necessary.

I hope this information is helpful.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec
Enclosure