

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

April 28, 1977

The Honorable Emile Jacques
House of Representatives
Legislative Post Office
State House
Augusta, ME 04333

Re: Constitutionality of L.D. 519

Dear Representative Jacques:

In your letter of March 24, 1977, you have asked whether L.D. 519, if enacted into law, would violate constitutional mandates of equal protection and due process. It is our opinion that the provisions of this bill would violate neither of these constitutional requirements.

L.D. 519 would authorize the Secretary of State to deny, suspend or revoke a motor vehicle dealer's license upon certification from the State Tax Assessor that an applicant for or the holder of the license has failed to pay a tax, other than property tax, in an amount exceeding \$1,000 within 60 days of notice of finality of the tax debt and has refused to cooperate in establishing and complying with a reasonable plan for payment.

The object of L.D. 519 is the collection of unpaid taxes owed by motor vehicle dealer licensees and applicants. The act in question will not be held to be a violation of equal protection if facts may reasonably be conceived to justify it. Union Mutual Life Insurance Company v. Emerson, 345 A.2d 504, 507 (Me. 1975). Statistics compiled by the State Tax Assessor indicate that sales tax delinquency comprises 83% of all state tax delinquency and that 1615 taxpayers had delinquent sales tax accounts

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at the end of calendar year 1976. Ninety-five per cent of these 1615 taxpayers were either liquor licensees (1211 taxpayers; 75%)¹ or motor vehicle dealers (323 taxpayers; 20%). The classification established by the bill, therefore, is based upon an actual difference in the classes of those who pay sales tax. Because motor vehicle dealers comprise a substantial portion of the number of delinquent sales tax accounts, the classification created by L.D. 519 bears a rational relation to the legislative purpose, namely the recovery of unpaid taxes. Consequently, if enacted into law, L.D. 519 would not contravene the equal protection clause.

Nor would the bill violate constitutional guarantees of due process. In the case of an applicant denied a motor vehicle dealer's license, 29 M.R.S.A. §350 provides for a hearing at which the aggrieved applicant may contest the denial. Likewise, 29 M.R.S.A. §351 provides a licensee with a right to a hearing to contest the suspension or revocation of his motor vehicle dealer's license. Moreover, 29 M.R.S.A. §353 provides aggrieved applicants and licensees with a right to appeal to the Superior Court an action of the Secretary of State in refusing to grant or renew or in suspending or revoking a motor vehicle dealer's license. In view of these procedural safeguards, the enactment of L.D. 519 would not violate the due process clause.

It is the opinion of this office, therefore, that the provisions of L.D. 519, if enacted into law, would not contravene constitutional guarantees of equal protection of due process.

Sincerely,


MICHAEL D. SEITZINGER
Assistant Attorney General

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1. A bill containing provisions similar to those of L.D. 519 has been enacted into law at the current session of the Maine Legislature to deal with the collection of taxes from liquor licensees. See P.L. 1977, c. 74.