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Highway Fund Title
Fines Highway Fund
29 M.R.S.A. 1656

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September 5, 1978

Elizabeth D. Belshaw
State Court Administrator
P.O. Box 4820 DTS
Portland, Maine 04112

Dear Ms. Belshaw:

This is in response to your request for an opinion as to whether fines collected pursuant to 29 M.R.S.A. § 1656 should accrue to the General Fund or to the General Highway Fund.

29 M.R.S.A. § 2302 provides, in pertinent part:

"All fines and forfeitures collected under this Title shall accrue to the General Fund, except for overload violations, only \$5 or 13%, whichever is the greater, of each such overload fine or forfeiture collected through the District Court, shall accrue to the General Fund and the balance thereof shall accrue to the General Highway Fund."
(emphasis supplied)

It must be determined, then, whether a violation of 29 M.R.S.A. § 1656 constitutes an "overload violation." That section provides, in part:

"No person shall operate, or cause to be operated, any vehicle with a gross weight that is more than 10% above that gross weight specified in the registration certificate for such vehicles having a gross weight of not over 15,000 pounds and 5% for vehicles with a gross weight specified in the registration certificate of over 15,000 pounds; provided that no vehicle or combination of vehicles shall be operated on the highway with a gross weight that exceeds those limits established by this Title."

"Gross weight" is defined by 29 M.R.S.A. § 101 to mean "the actual empty weight in pounds of the vehicle plus the maximum weight of the load to be carried by such vehicle."

To violate 29 M.R.S.A. § 1656, a vehicle must be in fact carrying a load that brings its gross weight in excess of that gross weight stated on the registration certificate for that vehicle. The gravamen of the violation is the actual total weight of the vehicle with its load, rather than the gross weight stated on the registration certificate. Therefore, a violation of 29 M.R.S.A. § 1656 does constitute an "overload violation" as that term is used in 29 M.R.S.A. § 2302. All monies collected by the District Court resulting from violations of 29 M.R.S.A. § 1656 should be dispensed according to 29 M.R.S.A. § 2302.

I hope this information is helpful. If you need further information, please let us know.



STEVEN WRIGHT
Assistant Attorney General

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