

MAINE STATE LEGISLATURE

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JOSEPH E. BRENNAN
ATTORNEY GENERAL



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DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

September 14, 1978

TO: Vinal O. Look, Commissioner
Department of Marine Resources

FROM: Cabanne Howard, Assistant Attorney General

DATE: September 13, 1978

SUBJECT: Committee to Study Airmobiles

You have asked whether the Committee to Study Airmobiles, as established by Laws of Maine of 1973, ch. 238 (1973), has the authority to permit the testing of airmobiles. Our response is that the Committee does not have such authority because such testing is not authorized by statute, in addition to which the Committee itself no longer exists.

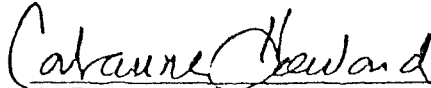
As indicated by the letter attached to your request, your question is prompted by the desire of Mr. Lionel Daniels of Bowdoinham to test airmobiles in the Androscoggin River. This request is apparently identical to one made in 1976 to the Committee by Mr. Digby Cowan on behalf of the same business concern. At that time, the Committee, acting on the advice of the Attorney General's Office, determined that its enabling legislation did not authorize it to permit airmobile testing outside of its presence. A copy of its response to Mr. Cowan is attached.

In addition, it also appears that even if the Committee had such authority, it would be powerless to act at this time since it was created for the purpose of submitting draft legislation to the 107th Legislature, 12 M.R.S.A. §1995, which Legislature has permanently adjourned. At the time of Mr. Cowan's request, that Legislature was still in existence and thus conceivably could have received a request for the Committee. Accordingly, the Committee did express its willingness to witness any demonstration of airmobiles which Mr. Cowan might have wished to make. Since the adjournment of the 107th Legislature, however, the Committee no longer has any function, and must, therefore, be deemed to have ceased to exist. It thus could not even witness a demonstration, let alone authorize testing outside of its presence. That the Legislature believes the Committee to longer exist is further evidenced by the creation, through a study order of the 108th Legislature, of a different committee to review the problem and make legislative recommendations, which committee you served as chairman of. This committee did recommend L.D. 2153, referred to in Mr. Daniels' letter, which was vetoed by the Governor.

September 13, 1978

Accordingly, as things now stand, a new request for legislation would have to be made to the 109th Legislature in January in order for any testing to occur. Otherwise, the prohibition of the operation of airmobiles set forth in 12 M.R.S.A. §1992 would continue in force.

I hope this answers your questions.

A handwritten signature in cursive script, reading "Cabanne Howard", written over a horizontal line.

CABANNE HOWARD

Assistant Attorney General

CH/bls

August 26, 1976

Mr. Digby Cowan
Air Cushioned Craft, Inc.
Brown's Point Road
Bowdoinham, Maine 04003

Dear Mr. Cowan:

This is in response to your letter of August 2, 1976 requesting the Committee to Study Airmobiles establish an area in which you would be permitted to test the airmobiles which you intend to produce. On August 19, the Committee met to consider your request, and after some consideration, it was the unanimous view that it lacked the authority to permit such an operation.

The Committee's authority to permit the operation of airmobiles is set forth in Section 1995 (4) of its enabling legislation, 12 M.R.S.A. SS 1990, et seq., which provides:

"In conducting its study, the committee may operate or allow to be operated airmobiles." (emphasis added).

This would appear clearly to limit the Committee's authority to permit the operation of the craft solely to demonstrations in its presence. It does not authorize the Committee to allow the testing and development of a machine, the Legislature evidently not contemplating that airmobiles would be test-developed in Maine, but that the Committee would be able to study a production machine.

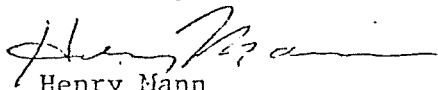
I am instructed to add that the Committee does stand ready to attend demonstrations which will enable it to evaluate a machine within the context of its mandate. Such demonstration could only be useful to further inform the Committee about the areas of concern delineated in Title 12, Section 1995, paragraph 3. These are:

"Damage, destruction and displacement of plant and animal life, intrusion upon the privacy of others by sight and sound, the necessity of requiring registration of vehicles and licensing of operators, mechanical safety features, limits on sound and speed, use on public roads, soil erosion and the needs of the public for a safe, healthy and aesthetic environment."

It would therefore appear to the Committee that the relief you desire can only be granted by the Maine Legislature. I suggest that you contact the Representative or Senator from your area and see if he or she would not sponsor appropriate legislation.

Please do not hesitate to call on me if you have any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Henry Mann".

Henry Mann
Acting Chairman
Committee to Study Airmobiles

HM/rlc