

MAINE STATE LEGISLATURE

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STATE OF MAINE

80-27

Inter-Departmental Memorandum Date February 5, 1980

To Linwood Ross, Deputy

Dept. Secretary of State

From Steven Wright, Assistant

Dept. Attorney General

Subject Issuance of title certificates for attached vehicles

You have asked whether a person who has obtained a court order approving the attachment of a 1975 vehicle is thereby entitled to the issuance of a certificate of title to that vehicle by the Secretary of State. We answer in the negative.

Maine's motor vehicle title law essentially requires that all vehicles, except those of 1974 model year or older, have a certificate of title which certificate constitutes prima facie evidence of that vehicle's ownership. 29 MRSA §2351, sub-§4 defines "owner" as follows:

"Owner", for certificate of title purposes, means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

29 MRSA §2367, sub-§5 reads as follows:

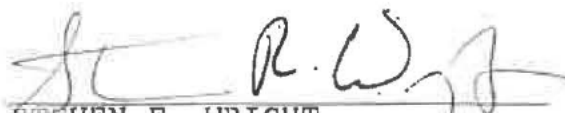
A certificate of title for a vehicle is not subject to garnishment, attachment, execution or other judicial process, but this subsection does not prevent a lawful levy upon the vehicle.

14 MRSA §4401, sub-1, exempts from attachment and execution the debtor's interest, not to exceed \$1000, in one motor vehicle.

All legislation on the same subject must be viewed in its overall entirety so that an harmonious result presumably intended by the legislature may be reached. Small v. Gartley, Me., 363 A. 2d 724. (1976). Also, a basic tenet of statutory construction is to attach the plain meaning to words used by the legislature. Appeal of Davis Me., 369 A. 2d 628. (1977). Keeping these fundamental rules in mind, it appears clear that 29 MRSA §2367, sub-§5 prevents the certificate of title from being the res of a garnishment, attachment, execution or other legal process, but allows the vehicle to be the res of a lawful levy, save the \$1000 exemption of 14 MRSA §4401, sub-§1. The question then becomes whether the fact of attachment of a vehicle through the effectuation of a lawful levy entitles the attaching party to be issued a certificate of title. The writ of attachment merely provides security for a possible judgment, it does not transfer ownership. 14 MRSA §4151.

Tangentially, it should be noted that once the Secretary of State is notified of the fact that a vehicle has been attached, he should not issue any subsequent certificates of title in the event the party who has had his vehicle attached attempts a sale of the vehicle without the express written consent of the attaching party. Authority for withholding the certificate until a final determination of the legal proceeding is granted by 29 MRSA §2369, sub-§1. The Secretary of State is also authorized by 29 MRSA §2370, sub-§1 to refuse the issuance of a certificate of title if he has reasonable ground to believe that the applicant is not the owner of the vehicle. As indicated earlier, the fact that a person has effected a valid attachment in no way transfers ownership to him of the res of the attachment.

If you have any further questions on this matter, please feel free to contact me.


STEVEN F. WRIGHT.
Assistant Attorney General