

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



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

June 11, 1981

Honorable James W. Reeves  
House of Representatives  
State House  
Augusta, Maine 04333

Dear Representative Reeves:

This will respond to your inquiry concerning the legality of selling show ribbons which have facsimiles of the seal of the State of Maine imprinted on them. We understand that the ribbons are sold to agricultural societies for use as prizes in their fairs and that such use of the seal has been a common practice for many years.

The relevant statute, 1 M.R.S.A. § 204, provides as follows:

No imitation, imprint, representation, facsimile or copy of the seal of the State of Maine shall be used or displayed for commercial purposes by any person, firm or corporation, except by written permission of the Governor. Any person may sell flags containing the state seal or a facsimile of the state seal. Whoever violates any of the provisions of this section shall be guilty of a Class E crime.

Before addressing your specific inquiry, we think it necessary to determine the applicability of § 204 to the use of the ribbons by the agricultural societies.

In approaching the above question, we must be mindful of the fact that, as a criminal statute, § 204 must be narrowly construed. When the section is so construed, we have serious doubt that the Legislature intended to encompass within the term, "for commercial purposes," the use of ribbons bearing the State seal as prizes at fairs conducted by county and local agricultural societies. That this practice has apparently been of considerable duration and has not prompted any action by the Legislature serves to reinforce our doubt. For these reasons, we are unable to conclude that the use of the State seal in the manner described above violates 1 M.R.S.A. § 204.

Having determined that the use of the State seal on agricultural society prize ribbons is not prohibited by § 204, we may now address the legality of selling the ribbons to the societies. When read literally, § 204 could reach such conduct on the theory that the sale of the ribbons is a use of the State seal for commercial purposes. For the reasons outlined below, however, we interpret the statute as inapplicable to this situation.

In our view, the purpose of § 204 is to prevent the exploitation of the State seal through its use in a manner which might create the misimpression that the State either is involved in or sanctions a particular commercial activity. Under this theory, there will be situations, as with agricultural society prize ribbons, when a facsimile of the seal may lawfully be used. In these situations, moreover, the user obviously must be able to purchase the facsimile. Such sales to agricultural societies do not pose the danger at which the statute is directed, namely, the commercial exploitation of the seal, since there is no possibility that the purchasers could conclude that the State is in any way involved in the transaction. Thus, even though these sales may fall within a literal reading of § 204, we do not believe it was the intent of the Legislature to prohibit them.

To summarize, it is our conclusion that the sale of show ribbons bearing facsimiles of the State seal to agricultural societies for use as prizes at their fairs does not violate 1 M.R.S.A. § 204, even in the absence of written permission from the Governor.

I hope this answers your question. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

*Stephen L. Diamond*  
STEPHEN L. DIAMOND  
Deputy Attorney General

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