

# MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
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November 5, 1982

Honorable Barbara A. Gill  
70 Springwood Road  
South Portland, Maine 04106

Dear Senator Gill:

You have requested this Office's opinion on the question of whether the revenues from a "premium" on the sale of gasoline can be used for purposes other than those set out in Me. Const., Art. IV, § 19. That section provides that:

All revenues derived from fees, excises and license taxes relating. . . to fuels used for the propulsion of. . . vehicles [on public highways] shall be expended solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction and supervision of a state department having jurisdiction over such highways and bridges and expense for state enforcement of traffic laws and shall not be diverted for any purpose. . . .

We conclude that the revenues of such a "premium" may not be diverted to non-highway uses.

The Justices of the Supreme Judicial Court addressed a similar question in Opinion of the Justices, 155 Me. 125 (1959). They stated that a charge, denominated a "premium," which was to

be levied on the registration of uninsured automobiles came within the language of § 19 and could not therefore be used to set up a fund whose purpose would be to indemnify persons who were involved in accidents with uninsured motorists. The Justices stated:

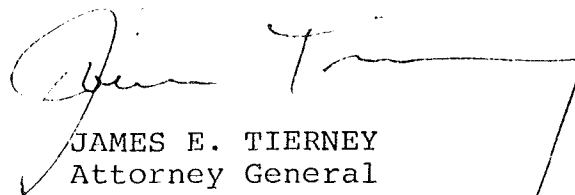
Although the proposed act in terms refers to the charge. . . as a "premium" and specifically provides that "this premium shall not be construed as full or partial payment of, or in lieu of, any fee, excise or license tax. . . ," the fact remains that the proposed act imposes a charge which is prerequisite to the registration of a motor vehicle. Such a charge, however designated, clearly falls within the spirit if not the exact letter of the constitutional limitation and may not therefore be diverted to purposes other than those enumerated in [§ 19].

155 Me. at 139  
(emphasis added).

Precisely the same reasoning applies in the instant case. The label given to the charge is irrelevant. See generally Solberg v. Davenport, 232 N.W. 477 (Ia. 1930). What is important is that the "premium" on gasoline falls within the category of a "fee, excise, or license tax" under § 19 and therefore that the revenues it generates may not be diverted from highway-related uses under that section.

We hope this information is useful. If you have any further problems or questions, please feel free to contact this Office.

Sincerely,

  
JAMES E. TIERNEY  
Attorney General

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