

# MAINE STATE LEGISLATURE

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October 4, 1939

Department of State  
Corporation Division  
Augusta, Maine

Attention of Miss Bernice F. Tibbetts

Dear Miss Tibbetts:

In response to your letter of October 2nd, I am pleased to inform you that our Court, in the case of F. S. Royster Guano Company v. Cole, 115 Me., 387, has said that:

"A contract of sale of merchandise between citizens of different states which contemplates the transportation of such merchandise from one state to another is a transaction of interstate commerce."

In the same case the Court has said:

"Every citizen of the United States is entitled under the Constitution to carry on interstate commerce without having the same materially or directly burdened by State regulation."

The Court has further said, in effect, that the provisions of sections 106 and 107 of R. S. Chapter 56 are materially burdensome to interstate commerce and, therefore, repugnant to the commerce clause of the Constitution.

The aforesaid sections of Chapter 56 evidently apply only to intrastate commerce which is conducted between points within the State. If merchandise has been

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committed to a truck carrier by a shipper from a point in another State to certain points in this State, the character of the commerce is interstate; its nature being regulated by Federal law. In case the truck carrier in making delivery of such merchandise, takes on within the State additional articles to be delivered within the State he then becomes engaged in intrastate commerce regulated by State law.

A carrier engaged in interstate commerce is not required to qualify in accordance with the aforesaid provisions of sections 106 and 107, but only under Chapter 46 of P. L. 1935. (Page 85 of the Motor Vehicle Laws)

Trusting that the foregoing will give you the information you require, I am

Very truly yours,

Sanford L. Fogg  
Deputy Attorney General

SLF H