

# MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

August 18, 1955

To Colonel Robert Marx, Chief, Maine State Police

Re: Sealed Vehicles

. . . You ask for an interpretation of Sections 19-52, inclusive, of Chapter 48 of the Revised Statutes of 1954, which sections cover the business of motor transportation for hire, together with provisions for rules and regulations to be promulgated by the Public Utilities Commission, covering such transportation.

In brief, you state that your Department is the only police agency in the State which attempts to enforce these provisions. You ask if, under the police power of the State, it is possible to break sealed boxes or cars used for the purpose of transporting goods to determine whether or not the goods so carried are embraced within the permit issued by the Public Utilities Commission or the permit issued by the Interstate Commerce Commission. Your question therefore extends to your right to break the seal on such cars engaged both in interstate and intrastate commerce, for the purpose of inspection.

You state that neither the statutes nor rules and regulations spell out the rights of the State Police to make this inspection in this manner, and you also point out that there is a possibility that carriers are evading the law by carrying goods not authorized by permit, by the use of sealed cars.

With respect to carriers in interstate commerce our answer is in the negative. We do not feel that the police power grants sufficient right to police agencies of this State to break the seals on boxes or cars in interstate commerce for the purpose of inspection. Under the Federal Constitution interstate and foreign commerce come within the jurisdiction of the Federal Government. We feel that such inspection would very possibly be a direct burden upon interstate commerce and therefore would be illegal. There is, however, some consolation in that the usual permit issued by the ICC is broad in scope and it would be a rare case where trucks in interstate commerce would be carrying cargoes not authorized by permit.

Our answer with regard to cars or boxes engaged in intrastate commerce, absent statutes or rules and regulations properly enacted permitting such inspection, is the same. We do not feel that it would be a proper police power function to break the seals of these cars without such statutory or regulatory provision.

As we perceive the situation, while the absence of the right to make such inspection may be inconvenient for police purposes, still the effective communication system you have established in the Maine State Police would seem to offset any detriment to the State because of the lack of inspection powers. If the carrier suspected of evading the law is an intrastate carrier, our purpose would probably be served by communicating with the barracks closest to the point of destination of goods, and the box could be inspected when opened.

If the suspect carrier is in interstate commerce, then notifying ICC officials would undoubtedly accomplish the same purpose.

This opinion is not to be interpreted as precluding possible agreement, under existing statutes, between your Department, the Public Utilities Commission, and intrastate carriers for inspection, if safeguards were devised which would properly protect the owner of goods who desires his property to be carried under seal.

FRANK F. HARDING  
Attorney General