

# MAINE STATE LEGISLATURE

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January 28, 1966

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Labor and Industry

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Attorney General

Revision of a previous opinion in regard to the applicability of the minimum wage laws of the State of Maine to employees of interstate motor carriers.

ISSUE:

Is the overtime payment provision of the state minimum wage law (26 M.R.S.A. § 664) applicable to employees of interstate motor carriers?

ANSWER:

Yes.

OPINION:

The maximum hours and overtime payment provisions of the Fair Labor Standards Act do not apply to:

" . . . (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 304 of title 49; . . . " 29 U.S.C.A. § 213 (b) (1).

"The jurisdiction of the Interstate Commerce Commission under 49 U.S.C.A. § 304 (a) (1) to establish qualifications and maximum hours of service with respect to employees of interstate motor carriers whose activities affect safety of operation is exclusive, and cannot be reconciled so as to provide concurrent jurisdiction with the overtime payment requirements of section 207 of the Fair Labor Standards Act." Morris v. McComb, 68 S. Ct. 131, 332 U. S. 422, 92 L. Ed. 44 (1947). (Emphasis supplied)

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However, it does not follow that the individual states are precluded from establishing reasonable requirements with respect to maximum hours of service and overtime pay of employees of interstate motor carriers.

Under the terms of 26 M.R.S.A. § 664 it is provided that one and one half times the regular hourly rate shall be paid to employees for all work done over 48 hours in any one week. There is no exemption from coverage under this provision to employees of interstate motor carriers.

We therefore conclude that the overtime payment requirements of the State of Maine (26 M.R.S.A. § 664) are applicable to employees of interstate motor carriers.

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