

MAINE STATE LEGISLATURE

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29 M.R.S.A. § 1655
with "produce"

February 10, 1976

Honorable Glenys W. Berry
House Chambers
State House
Augusta, Maine

Dear Representative Berry:

This letter responds to your inquiry to this office concerning L.D. 2065. That bill would add the category "grain" to the list of load materials designated in 29 M.R.S.A. § 1655, which qualify the transporting vehicle for a certain variance in weight tolerances. The specific question is whether "grain" is already included in the list under the category of "farm produce." The answer is that "grain" would generally be considered a farm product, but might not be considered "farm produce" in all cases.

The category of "farm produce" was added to the law in 1965. P.L. 1965, c. 225 (L.D. 70) The bill originally would have included "farm produce and supplies," but the category of "supplies" was deleted by a House Amendment (H-208) apparently because it was felt this class was too broad. Legislative Record, House - April 13, 1965, p. 1252. Although there was no specific discussion during the extensive debates of what would constitute "farm produce," there seems to have been some understanding that this would include harvested crops being trucked from the fields to the processor. The scope of the category has not been tested in Maine courts. However, as shown below, judicial interpretations from other states would support this legislative understanding at the time the category was added to the law.

A review of case law defining the term "farm produce" in various contexts outside Maine reveals a general concern with the product of the farm - that which grows or increases on the farm to a marketable condition and which is a means of income for the farm. Dyer v. Royal Insurance Co., 150 A.2d 915 (Md., 1959); In re Rodgers, 279 N.W. 800 (Neb., 1938); Central States Cooperatives v. Watson Bros. Transp. Co., 90 N.E.2d 205 (Ill., 1950). In this

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sense, grain which has been grown and harvested by the farmers and is being transported to market would be considered "farm produce" for purposes of 29 M.R.S.A. § 1655. However, it is less certain that the same classification would be applied to grain which is being transported to a farm after purchase for purposes of feeding livestock, or which is being transported by a processor to the consumer. In the case of grain being transported for feed purposes, it is interesting to note the definition of "commercial feed" in the Maine Commercial Feed Law of 1971 and its exceptions. (7 M.R.S.A. § 711, et seq.)

In light of the foregoing, we are unable to state specifically that a truck load of "grain" would be considered a load of "farm produce" in all cases. I hope this answer, while it is not definite, will be of assistance to you. Please continue to call on us whenever you think we may assist you.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

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