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*Reciprocity of Trucking limits
Trucking limits of other states or provinces*

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 22, 1978

Honorable Jasper S. Wyman
House of Representatives
State House
Augusta, Maine

Dear Representative Wyman:

This responds to your request for an opinion as to whether legislation which is proposed to be introduced and is entitled: "AN ACT Relating to the Transportation of Primary Wood Products" violates any constitutional provision. A copy of the proposed Act is attached to this opinion.

The key provision of the proposed legislation would add a new paragraph to 35 M.R.S.A. § 1560-1, which new paragraph would read as follows:

"If any state, district, province, or country prohibits, in any way, or by law or regulation requires a citizen of this State to establish citizenship, a residence or place of business or to register a business in said state, district, province, or country in order to transport wood, pulpwood, logs or sawed lumber from that state, district, province or country to this State, similar provisions shall apply to residents of said state, district, province or country who transport wood, pulpwood, logs or sawed lumber from Maine to said state, district, province or country."

The effect of this paragraph is to establish a reciprocity requirement for persons desiring to transport wood, pulpwood, logs or sawed lumber from a Maine destination to another state. The provision of law would impose no restriction on such hauling by most out-of-state residents. The exception to this would be in those circumstances where a person's state or province of residence imposes certain restrictions on persons from other states desiring to haul wood products from that state or province to Maine. In those circumstances, the same restrictions would apply

to a resident of that state desiring to haul pulpwood from Maine as are applied to Maine haulers of wood desiring to haul wood from that other state or province to Maine.

We recognize that you desire a prompt response to this question. Therefore, we have not been able to engage in extensive research on the matter, and we issue the opinion with that caution. However, based on our understanding of the law and the limited research we have been able to do, we do not think we would be in a position to say that the reciprocity arrangements contemplated by the proposed Act Relating to the Transportation of Primary Wood Products would be violative of state or federal constitutional provisions.

The Act is nondiscriminatory in its application. It, in effect, allows free trade and transport except in cases where other states or provinces impose restriction on transport by Maine residents. In such cases, the law makes those restrictions reciprocal and applies them to residents of the particular jurisdiction having the restrictions. We do not see any equal protection problem in such a general amendment.

The more difficult question is posed in regard to whether there is any imposition upon interstate commerce. In that connection, we are aware that in other contexts (e.g., admissions to the Bar) reciprocity arrangements have been sustained against constitutional challenges. Hawkins v. Morse, 503 F.2d 1171 (4th Cir., 1974).

Thus, based on this preliminary research, we see no violation of the equal protection or interstate commerce clauses by the proposed reciprocity provision which is intended to be added to § 1560. We would also note that as the law is nondiscriminatory in application, we do not think a problem arises because of the fact that the law may, incidentally, apply to persons who live in other countries where there may exist restrictive arrangements. We would emphasize again, however, that because of the speed with which this opinion was requested, our research in this area has been necessarily limited.

I hope this information is helpful.

Sincerely,


DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

cc: Honorable John L. Martin