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U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

DIVISION'S POSITION ON EXEMPTION OF TRUCK MECHANICS, ETC.

While the Interstate Commerce Commission has found that mechanics, loaders and drivers' helpers employed by common, contract and private motor carriers affect the safety of operation of motor vehicles, General Philip B. Fleming, Administrator of the Wage and Hour Division, said today that the courts may well agree with the view previously expressed by the Wage and Hour Division that the exemption of these workers from the 40 hour workweek of the Wage and Hour Law does not become operative until the I. C. C. begins actual regulation of their hours of service.

The Administrator's statement was in regard to an opinion of the Interstate Commerce Commission in Ex Parte No. MC-2 and Ex Parte No. MC-3 to the effect that such employees affect the safety of operation of motor vehicles and are therefore subject to the Commission's jurisdiction to prescribe hours of service pursuant to the Motor Carrier Act, 1935.

General Fleming stated:

"The Interstate Commerce Commission has just published its report containing a finding that mechanics, loaders and drivers' helpers (including conductorettes and armed guards in armored trucks) affect the safety of operation of motor vehicles and are therefore subject to the Commission's authority to prescribe qualifications and maximum hours of service pursuant to section 204a of the Motor Carrier Act. The Commission has not yet issued any regulations concerning maximum hours of service for these classes of employees and must hold further hearings before so doing.

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"Section 13(b)(1) of the Fair Labor Standards Act provides an exemption from the overtime provisions of the act for any employee with respect to whom the Interstate Commerce Commission has power to prescribe qualifications and maximum hours of service pursuant to section 204a of the Motor Carrier Act, 1935.

"I have stated in the past that in the opinion of the Wage and Hour Division, the exemption provided by section 13(b)(1) does not become operative until employees, for whom the exemption is claimed, are actually regulated by the Commission as to their hours of service. It may be that the courts will adopt this view.

"I wish also to point out that at least two courts have already held that in suits under section 16(b), courts may determine what employees lie within the Commission's power to prescribe hours of service and may reach decisions different from those reached by the Commission."

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