

§ 570.106

selling, trading, distributing, delivering, etc. It includes middlemen, factors, brokers, commission merchants, wholesalers, retailers and the like.

§ 570.106 “Ship or deliver for shipment in commerce”.

(a) Section 12(a) forbids producers, manufacturers, and dealers to “ship or deliver for shipment in commerce” the goods referred to therein. A producer, manufacturer, or dealer may “ship” goods in commerce either by moving them himself in interstate or foreign commerce or by causing them to so move, as by delivery to a carrier.⁷ Thus, a baker “ships” his bread in commerce whether he carries it in his own truck across State lines or sends it by contract or common carrier to his customers in other States. The word “ship” must be applied in its ordinary meaning. For example, it does not apply to the transmission of telegraphic messages.⁸

(b) To “deliver for shipment in commerce” means to surrender the custody of goods to another under such circumstances that the person surrendering the goods knows or has reason to believe that the goods will later be shipped in commerce.⁹ Typical is the case of a Detroit manufacturer who delivers his goods in Detroit to a distributor who, as the manufacturer is well aware, will ship the goods into another State. A delivery for shipment in commerce may also be made where raw materials are delivered by their producer to a manufacturer in the same

⁷Section 3(b) of the Act defines “commerce” to mean “trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.”

⁸*Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490.

⁹*Tobin v. Grant*, N. D. Calif., 79 Sup. 975 which was a suit for injunction by the Secretary of Labor against a manufacturer of books and book covers employing oppressive child labor. The facts showed that the manufactured articles sold by defendant to purchasers in the same State had an ultimate out-of-State destination which was manifest to defendant. The court construed the words “deliver for shipment in commerce” as sufficiently broad to cover this situation even though the purchasers acquired title to the goods.

29 CFR Ch. V (7-1-02 Edition)

State who converts them into new products which are later shipped across State lines. If the producer in such case is aware or has reason to believe that the finished products will ultimately be sent into another State, his delivery of the raw materials to the manufacturer is a delivery for shipment in commerce. Another example is a paper box manufacturer who ships a carton of boxes to a fresh fruit or vegetable packing shed within the same State, with knowledge or reason to believe that the boxes will there be filled with fruits or vegetables and shipped outside the State. In such case the box manufacturer has delivered the boxes for shipment in commerce.

§ 570.107 “Goods”.¹⁰

(a) Section 12(a) prohibits the shipment or delivery for shipment in commerce of “any goods” produced in an establishment which were removed within 30 days of the employment there of oppressive child labor. It should be noted that the statute does not base the prohibition of section 12(a) upon the percentage of an establishment’s output which is shipped in commerce.

(b) The Act furnishes its own definition of “goods” in section 3(i), as follows:

Goods means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

The term includes such things as foodstuffs, clothing, machinery, printed materials, blueprints and also includes intangibles such as news, ideas, and intelligence. The statute expressly excludes goods after their delivery into the actual physical possession of an ultimate consumer other than a producer, manufacturer, or processor

¹⁰The term *goods* is discussed in more detail in part 776 of this title (Interpretative Bulletin on the coverage of the wage and hours provisions) issued by the Administrator of the Wage and Hour Division.