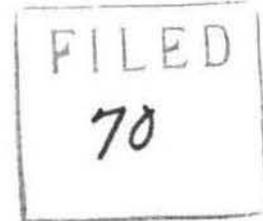


(Answer by Letter) Patten

January 19, 1970

OPINION LETTER NO. 70

Honorable William S. Brandom  
Prosecuting Attorney  
Clay County Courthouse  
Liberty, Missouri 64063



Dear Mr. Brandom:

This letter is in response to your request for an opinion on the question of whether or not certain employees of a railroad company who drive vehicles belonging to their employer must have chauffeur's licenses. The facts of the particular case in question involve employees of a railroad company who are employed as mechanics and laborers, and who operate company vehicles on intermittent occasions when repairs of railroad tracks or repairs on a stalled engine are required. No one man drives the vehicles all of the time and there is no pattern as to who will drive, other than those who are available at the time the emergency arises. Selection of the drivers is a hit-or-miss matter. The employees in question receive no extra pay for driving to the repair site. Your questions were posed as to whether an employee would need a chauffeur's license if he drove one day in a month, five days in a month or ten days in a month. As will be seen from the following discussion, this office does not consider it relevant as to how many days an employee might drive in any particular month in determining whether or not that employee needs a chauffeur's license. Therefore, this opinion will cover the facts presented in your opinion request and will not hypothesize as to facts concerning how many days in a particular month a given employee might drive a company owned vehicle before needing a chauffeur's license.

Section 302.010, sub 1, defines chauffeur as follows:

"'Chauffeur', an operator who operates a motor vehicle in the transportation of persons or property, and who receives compen-

Honorable William S. Brandom

sation for such services in wages, salary, commission or fare; or who as owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial motor vehicle of another person in the course of or as an incident to his employment, but whose principal occupation is not the operating of such motor vehicle; . . ."

Enclosed is a copy of Attorney General's Opinion No. 227, dated August 5, 1964, issued to the Honorable Bill D. Burlison, which held that a sheet metal worker is not required to have a chauffeur's license to operate his employer's trucks if the trips are so occasional and infrequent that they are not part of the employee's regular duties. It is our opinion that Opinion No. 227 applies here and therefore, the railroad employees involved here do not have to obtain chauffeur's licenses. This opinion holds true no matter how many days in any particular month the employees drive the railroad company's trucks, the crucial determination not being how many days the truck or vehicle is driven by the employee but rather whether the driving of the vehicle is a "regular" part of the employee's duties. If one of the railroad employees were assigned to the duty of always driving the vehicles in question, or if the driving of the vehicles was rotated among the employees on a set schedule, then chauffeur's licenses would be required because the employees would be "regularly" driving the employer's vehicles in the course of the employer's business.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Enclosure:

Opinion No. 227, Burlison, August 5, 1964