

PUBLIC SERVICE COMMISSION:-- Exemption of certificate of convenience and necessity for trucks operated on the highway.

✓ Sec 5272 Law 1931
Sec 5280 Law 31 8-24

August 23, 1933



Mr. A. J. Bielly
Assistant Prosecuting Attorney
Buchanan County
St. Joseph, Missouri

Dear Sir:

We hereby acknowledge your request for an opinion dated August 17, 1933. Your request was as follows:

"For example A has a Ford model A one ton and half truck, that is the way the title reads, and the rated capacity is 1 1/2 ton truck. Lawler Grant Co., here states that the manufacturer's rated load capacity means just what it says, for instance, that the ton and one-half ton is the loading capacity of that truck. Now then A has such a ton and half truck, he hauls freight for hire from St. Joseph to other points east. He has not secured a permit to haul, contending that he is exempted under section 5280 because he owns and operates what is known as a ton and half truck. The Commission has not as yet determined the actual load or weight carrying capacity, because he has not asked for a permit. Is it necessary for this truck driver to have a permit before he can haul in this ton and one half truck?"

Laws of 1931, page 312, paragraph 3, of Section 5272 provides in part as follows:

"In computing the annual license fee on each motor vehicle, trailer or semi-trailer, operating under a certificate of convenience and necessity or interstate permit as a freight carrying vehicle, the vehicle shall be rated on the manufacturer's rated load capacity or the actual

weight carrying capacity of the vehicle, which capacity shall be determined by the public service commission at the time a certificate of convenience and necessity or interstate permit is issued."

Page 316, Section 5280, provides in part as follows:

"* * * *Provided, the provision of this act shall not apply to trucks of one and one-half ton capacity and less."

It is our opinion that a trucker furnishing service as a common carrier in this State, by using a Ford model A ton and one-half truck, does not need a certificate of convenience and necessity from the Public Service Commission which is provided for by this Act, where the manufacturer's rated load capacity of said truck is one and one-half tons, and where the actual load at any one time on the highway does not exceed in actual weight one and one-half tons. The man in your hypothetical case does not bring himself within the provisions of Act unless his load be in excess of one and one-half tons.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General.