

MOTOR VEHICLES: Registered Operators discussed.

Case 7757-4-23 RS Mo 1933

May 17, 1933 ^{5/23}

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Hon. Herbert M. Braden
Prosecuting Attorney
Livingston County
Chillicothe, Missouri

Dear Sir:

This is to answer your letter of May 2, 1933, which is as follows:

"I am writing for an opinion as to whether or not, under the Motor Vehicle Act, and particularly under Section 7766, Missouri Revised Statutes for 1929, a boy of the age of 17 years, who claims to own a half interest in a garage business which is operated by his father and himself, and who operates motor vehicles as a part of his duties in operating this garage, is guilty of violating the Registered Operators section under the definitions of "persons and Registered Operators" as defined by Section 7759, Missouri Revised Statutes for 1929, where he operates a motor vehicle without either a chauffeurs license or a Registered Operators license.

The highway patrolman made an arrest of such a person and he was fined in the Justice Court, and appealed to the Circuit Court, and it is the defendant's contention that he is not required under the law to have a Registered Operators license.

I have searched the Statutes and Digest, but without success in finding any authority for this contention and on the suggestion of the Circuit Judge, I am writing for your opinion under these facts.

I trust that this is a statement sufficient on which to base an intelligent opinion."

Section 7758 R. S. No. 1929 reads in part as follows:

"This article shall be exclusively controlling on the registration, etc., * * * and upon the registration and regulation of chauffeurs, operators, and other drivers of motor vehicles,* * *"

Section 7766 R. S. No. 1929 is divided into two parts. Part 'A' in the portion pertinent to the matter under consideration reads as follows:

"Every person desiring to operate a motor vehicle as a registered operator shall file in the office of the commissioner a statement containing his name, age, etc. * * *"

And part 'B' of the same statute is as follows:

"* * * No certificate as a registered operator shall be issued to any person under the age of eighteen years."

Section 7783 R. S. No. 1929 provides:

"(a) Display of registration certificates: Chauffeurs and registered operators shall at all times carry, subject to inspection, the registration certificate furnished by the commissioner.* * *"

Section 7786, part 'B' provides the penalty for violations.

It will be seen from the grouping of the above statutes that a registered operator must obtain a certificate of registration and have such on display at all times.

Section 7766-b, R. S. No. 1929, provides that a person must be of the age of eighteen or over before a certificate will be issued to him

You state the person charged with being a registered operator is seventeen years of age. Therefore, he could not have obtained a certificate of a registered operator if he desired. However, this does not mean he could violate the above provisions of the statutes that bar him on account of his age. The question then being what is a registered operator?

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Section 7759 R. S. Mo. 1929 defines it as follows:

"* * * 'Registered Operator'. An operator, other than a chauffeur, who regularly operates a 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."*

This definition in our mind is plain and unambiguous, and the words used therein should be given their ordinary and usual meaning. You will thus see it is a matter of applying this definition to the facts in your case.

In view of the fact that this matter is now before the court for determination, we reserve our opinion as to whether said person as mentioned in your letter is guilty of violating the registered operator section. We merely say that in our opinion if the facts show a person is a registered operator within the meaning of the definition of the statute, as above set out, then such person should have such license and keep same on display and his failure to have one or to display it would subject him to the punishment prescribed.

Yours very truly,

JAMES L. HORNBOSTEL,
Assistant Attorney General.

APPROVED _____
Attorney General.

JLH:MM