

MOTOR VEHICLES:

Officials and employees of corporation
owning motor car required to register
as operator.

Ac 7766 RS Mo 1929.

December 27, 1933

12-30 ✓

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Honorable B. M. Casteel
Superintendent Missouri State Highway Patrol
Jefferson City, Missouri

Dear Mr. Casteel:

This Department acknowledges receipt of your
letter dated December 26, 1933, as follows:

"Please give this department your
opinion on the use of registered
operator's license as mentioned
in the attached correspondence."

Attached to your letter is request for opinion
by Mr. Thos. L. Leigh as to who comes within the definition of
a registered operator within the meaning of Section 7759 Revised
Statutes Missouri 1929, particularly as applied to cars owned
and operated by corporations.

Section 7759 Revised Statutes Missouri 1929,
being the second section of what is known as the Motor Vehicle
Law, defines the word "owner" as follows:

"The term 'owner' shall include any
person, firm, corporation or asso-
ciation owning or renting a motor
vehicle or having the exclusive use
thereof under lease, or otherwise,
for a period greater than ten days
successively."

Section 7761 provides:

"Every owner of a motor vehicle or trailer which shall be operated or driven upon the highways of this state* * * *

is required to register the same with the Commissioner of Motor Vehicles.

Section 7759 further defines "operator" as:

"Any person who operates or drives a motor vehicle."

By Section 7759 "registered operator" is,

"An operator, other than a chauffeur, who regularly operates a motor vehicle of another person in the course of, ~~as~~ as an incident to his employment, but whose principal occupation is not the operating of such motor vehicle."

Section 7766 with reference to the registration of registered operators, provides in part:

"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 and address, and the trade name and motive power of the motor vehicle he is competent to operate, on a blank to be furnished by the commissioner for that purpose, which shall be indorsed by two citizens of this state who are registered motor vehicle owners, who shall certify to the correctness of the facts stated in such application and the good character of such applicant."

Section 7765 provides for the registration of chauffeurs and prohibits the issuance of a certificate of registration to any chauffeur under the age of eighteen years, the same age limit is contained in Section 7766 providing for the registration of registered operators.

Section 4526 Revised Statutes Missouri 1929 defines the term "corporation" as follows:

" The term 'corporation,' as used in this chapter, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships."

Section 4555 provides:

"Every corporation, as such, has power* * * * *

Fifth. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation."

Corporation is defined in 14 C. J. page 51, Section 3, to be:

"* * * an artificial being or person created by law having a legal entity entirely separate and distinct from the individuals who compose it, with the capacity of continuous existence or succession notwithstanding changes in its membership, and having also the capacity, as such legal entity and artificial person in the law, of taking, holding, and conveying property, entering into contracts, suing and being sued, and exercising such other powers and privileges as may be conferred on it by the law of its creation, just as a natural person may".

Section 7783, Subdivision I, prohibits any person under the age of sixteen years from operating a motor vehicle on the highways of this state.

The application of an owner for registration of a motor vehicle shall contain, among other things, a brief description of the motor vehicle, the name, residence and business address of the owner thereof.

A statement filed by a chauffeur desiring registration shall give his name, age and address and his application shall be endorsed by two citizens of this state who are registered motor vehicle owners.

Section 7766 Revised Statutes 1929, makes provision for the registration of registered operators requiring that the person desiring to be so registered should file in the office of the Commissioner of Motor Vehicles of the state a statement containing his name, age and address and the trade name and motive power of the motor vehicle he is competent to operate and which statement should be endorsed by two citizens of this state who are registered motor vehicle owners and who shall certify to the correctness of the facts stated in such application and the good character of the applicant. Whereupon, upon the payment of the fee of \$3.00 the applicant shall be granted a certificate of registration and assigned a number as a registered operator. Section 7785, Subdivision A, requires registered operators to at all times carry subject to inspection the registration certificate furnished by the Commissioner.

Subdivision F of Section 7783, Revised Statutes 1929, requires every person operating or driving a motor vehicle on the highways of this state, knowing that an injury has been caused to a person or damage to property, due to the culpability of said operator or driver or due to accident, shall not leave the place of said injury, damage or accident without stopping, giving his name, residence, motor vehicle number and chauffeur's or registered operator's number, if any, to the injured party or other persons specified.

We have no way of knowing what was in the minds of the legislators with reference to what persons the defined words "registered operator" was intended to apply, except as we may ascertain that intention from what the legislature said by way of definition and by a construction of all the act. We are unable to find any construction or interpretation of the term "registered operator" by any court or in any text book.

The Legislature seems to have had in mind laying out a scheme of legislation intending to throw about the traveling public all possible protection under all circumstances and to not only keep a check on those authorized to drive automobiles but to see that those who did drive motor vehicles had some sort of qualification for such service and this would apply, as to those required to be registered operators, whether driving a car in the

course of his employment or merely as an incident to such employment. From the foregoing quotation from Corpus Juris it is apparent that the officers and employees of a corporation are a thing quite apart from the corporate entity, even though such officials or employees be stockholders in the corporation.

It is our opinion that if an officer or employee of a corporation, who also might be a stockholder in the corporation, operates a motor vehicle belonging to the corporation in the course of the employment of such official or employee or operates a motor vehicle belonging to the corporation as an incident to the employment of such official or employee of such corporation, then such official or employee of such corporation is required to register under the provisions of Section 7766 Revised Statutes Missouri 1929.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC