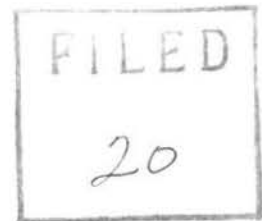


In re: Taxi-Drivers required to obtain contract hauler's permit to transport persons over irregular routes. VV

5164 A - C Jan 31
5270 Laws 31

January 14, 1933



Mr. S. P. Dalton,
Prosecuting Attorney,
Cape Girardeau County,
Cape Girardeau, Missouri.

Dear Sir:-

Your letter of December 8th, 1932 has been referred to me for attention.

In that letter you requested an opinion as to whether or not the information forwarded by you states a good cause of action against taxi-drivers operating over the highways without a permit, and also whether or not this matter is of such general interest as to justify an appeal from the court's order quashing the information.

It occurs to me that the information might be more specific and perhaps about in the following form, following the printed words, "willfully and unlawfully",

" engaged, as his principle business, in the transportation for compensation, of persons from place to place over public highways, under a contract and agreement with such person or persons, and as such contract hauler, and under a contract and agreement for compensation furnish transportation for the person of _____ over the public highways, to-wit: From _____ to _____ without first having obtained from the Missouri Public Service Commission a contract hauler's permit."

It also occurs to me that, Cape Girardeau and Jackson, Missouri are on a regular route within the meaning of Section 5264, (g) Laws, 1931, p. 305, then it would be well to charge the defendants for the violation of Section 5270 (e) Laws 1931, p. 310, because it would appear from your statement of the facts that the defendants are contract haulers within the meanin of Section 5264, (c), Laws, 1931, p. 305, and as such have no right or authority under any law to accept persons for transportation from a point on a regular route destined to a point on a regular route. In this connection, it might be well to draw the information following the printed portion in the following langu ge:

" engages, as his principle business, in transportation for compensation, of persons from place to place over public highways under a contract and agreement with such person or persons, and as such contract hauler and under a contract and agreement with _____ for compensation, then and there furnish transportation to _____ from Cape Girardeau, Missouri, a point on a regular route, to Jackson, Missouri, a point on a regular route."

It appears that there are no cases in Missouri on the questions raised by your letter, and that an appeal for test case in this instance by you would be feasible. In this connection, I am not unmindful of Section 11297, R. S. Mo. 1929, making it the duty of the Prosecuting Attorney to appear in the St. Louis Court of Appeals.

Yours very truly,

FRANKLIN E. REAGAN
Asst. Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

FER/mh