

RE: Truckman's license and Permit for delivery of live stock.

January 11, 1933

5264-70 laws 3/

FILED

54

Mr. E. C. Lockwood,
Prosecuting Attorney,
Gentry County,
Albany, Missouri.

Dear Sir:-

I have your letter of December 29th, making inquiry of this office as to the construction of certain laws relating to the use of motor vehicles and the transportation of stock.

The statement of facts contained in your letter is as follows:

"Mr. Alvin Whitten, of Albany, is an extensive live stock shipper and has contracts with various local buyers in the surrounding territory for the purchase and delivery of hogs to him at the railroad pens in South Albany.

"Mr. W. F. Maudlin, of Grant City, North of here, buys on a contract with Mr. Whitten, buying in his own name, at ten cents under the Albany price, (which allows for the expense of delivery), and a commission of ten cents per head. This is for purchases of hogs. Whitten and Maudlin have daily settlements.

"The trucking charge from Grant City to Albany is seven cents per cwt. Maudlin buys of the farmers, who are to deliver the hogs at this pens in Grant City, or if Mr. Maudlin sends a truck for them, the charge to the farmer is three cents per cwt.

"Mr. Maudlin assembles the hogs at Grant City and sends them on to Albany, presumably each day's purchases being delivered at Albany the same day."

If Mr. Maudlin purchases and transports the hogs in his own trucks, then he is neither a motor carrier "for hire" within the meaning of Section 5264, (b), nor a contract hauler "for compensation or hire" within the meaning of Section 5264 (c), Laws 1931, p. 304, 305.

The Public Service Commission Act in this matter only provides for a "motor carrier" to obtain a certificate of convenience and necessity, 5267, 5268. It also provides that only a "contract hauler" must obtain a contract hauler's permit, 5270, 5271.

It would therefore seem that under the above sections, that Mr. Maudlin would not be required to obtain either a certificate of convenience and necessity, or a contract hauler's permit.

If Mr. Maudlin hires other trucks to transport the hogs from Grant City to Albany, and neither place is on a "regular route", 5264, (g), 5270, (e), Laws 1931, p. 305, 310, then such trucks, so hired are "contract haulers", 5264 (c) and must have a contract hauler's permit, 5271 (a). The exemption set forth in Section 5265, Laws 1931, p. 306 does not apply to such contract haulers for the reason that such motor trucks are not used in transporting farm products "from the farm, *** to warehouse, *** storage or market", Grant City to another place of storage or market.

Respectfully yours,

FRANKLIN E. REAGAN,
Asst. Attorney General

Approved:

ROY McKITTRICK
Attorney General

FER/mh