

Act relating to transportation of persons and property by motor vehicle; penalty for violation thereof. ✓

July 13, 1933 7-26



Hon. Geo. B. Padget
Prosecuting Attorney
Daviness County
Gallatin, Missouri

Dear Sir:

This department is in receipt of your letter of June 19th in which you request an opinion as to the following state of facts:

"A party here, who advises me that he has obtained his permit to operate a Truck, or Trucks, came to me today complaining that other parties, and especially one whose name he mentioned, was operating a truck of $1\frac{1}{2}$ Ton capacity, with no other permit than simply his license-tags.

He says that in addition to other hauling in and out of Gallatin, Mo, this party hauls to St. Joseph and to Kansas City, in his Truck, stock from farms around here, and then while in the city he loads up, some-times with feed or flour or both and some-times he loads up with groceries, which feed, flour and groceries he brings to Gallatin, Mo. in his Truck, and delivers the same to merchants of Gallatin." * * *

Will you kindly fully enlighten me on this complicated law, and suggest to me just how I should proceed in case legal complaint of such kind is made by some one." * * *

Section 5268 Laws of Mo. 1931, p. 307, provides in part as follows:

"It is hereby declared unlawful for any motor carrier to operate or furnish service as a common carrier within this state without first having obtained from the commission a certificate declaring that public convenience and necessity will be promoted by such operation." * * *

Section 5271 Laws of Mo. 1931, p. 310 provides in part as follows:

"It is hereby declared unlawful for any contract hauler except as provided in section 5265 of this act to operate or furnish transportation for persons or property, or both, for hire over the highways of this state, without first have (having) obtained from the commission a contract hauler's permit." * * *

Section 5275 Laws of Mo. 1931, p. 314, provides as follows:

"P enalties-misdemeanor.--Every owner, officer, agent, or employee of any motor carrier, contract hauler, and every other person, who violates or fails to comply with or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the commission, and who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation thereof shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment."

Section 5264 Laws of Missouri 1931, p. 304, provides in part as follows:

"(b) The term 'motor carrier' * * *
operating any motor vehicle" * * *
upon any public highway for the trans-
portation of persons or property or
both" * * "for hire as a common carrier."**

(c) The term 'contract hauler' * * *
means any person***engaged, as his
principal business in the transportation
for compensation" * * "of persons and/or
property for a particular person" * *
to or from a particular place" * * under
special" * * "agreement" * * "and not operat-
ing as a common carrier" * * "

Therefore, it is the opinion of this department, that whether a person be operating a motor vehicle as a 'motor carrier' within the meaning of the law as above set out, or whether a person be operating a motor vehicle as a 'contract hauler' within the meaning of the law as above set out, that unless that person obtains a permit from the Public Service Commission as provided in the Laws of Missouri, 1931, p. 304 et seq, that person is guilty of a misdemeanor and punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

However, Section 5280 Laws of Mo. 1931, p. 316, 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."

The construction that the Public Service Commission has placed upon the above provision is that the maximum weight carrying capacity of the truck and not the manufacturers rating capacity is the test as to whether or not a truck is of one and a half ton capacity or less and so within the provisions of Section 5280 Laws of Mo. 1931.

Hon. Geo. B. Padget.

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From the facts as stated in your letter it would seem that if the maximum weight carrying capacity of the truck is one and a half ton then and in that event the provisions of the act relating to the transportation of persons by motor vehicle on public highways of the State of Missouri as found in Laws of Mo. 1931, p. 304, are not applicable.

Yours very truly,

JOHN W. HOFFMAN, JR.,
Assistant Attorney General.

APPROVED:

(Acting)
Attorney General.

JWH:MM