

Motor Vehicles, Trucks used in State work exempted from  
regulation by Public Service Commission

March 11, 1933

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Honorable Dewey A. Routh  
Prosecuting Attorney  
Vernon County  
Nevada, Missouri

Dear Sir:

We wish to acknowledge your inquiry of March 9th, 1933,  
concerning the following:

"I have a question confronting me, growing out of the  
arrest by our State Patrolman of the driver of a truck  
belonging to the Leaverton Transfer Company of In-  
dependence, Missouri.

The truck was engaged, at the time the State Trooper  
tied it up in Nevada, in carrying structural steel  
from Kansas City to Bates County to be used in the  
construction of the State Highway by the contractor,  
who is constructing that particular piece of highway.

The transfer company was hired by, and will be paid  
by the contractor and not by the State Highway  
Department. Their case is set for trial on Thursday,  
March 16th.

The Session Acts of 1931 at page 306, section 5265  
and the last sentence in said section reads as  
follows:- "This act shall not apply to trucks used  
in work for the State or any civil subdivision thereof."

The transfer company contends that the truck in  
question was being used in work for the State and  
that therefore they were exempt from the Public  
Service Commission Act and not required to obtain  
a Public Service Commission license in order to  
operate trucks upon the highway of the State in  
carrying freight for other persons.

I have been unable to find an adjudicated case in  
reports of the Appellate courts of Missouri. I  
would like therefore to have an opinion by the Attorney  
General as to his interpretation of the above quoted

sentence out of section 5265, Session Acts of 1931.

Does this sentence apply only to trucks which are hired by and are to be paid by the state, or any civil subdivision thereof, or are any trucks exempt which are hauling material in the construction of a State Highway in order to fulfill his the contractor's contract in the State Highway Department?"

Section 5265 of Article 8, Chapter 33, Laws 1931 p. 304, reads as follows:

"The provisions of this act shall not apply to any motor vehicle of a carrying capacity of not to exceed five persons, or one ton of freight, when operated under contract with the federal government for carrying the United States mail and when on the trip provided in said contract; nor any motor vehicle owned, controlled or operated as a school bus; nor taxicab, as herein defined; nor to motor vehicles used exclusively in transporting farm and dairy products from the farm or dairy to warehouse, creamery, or other original storage or market; nor to motor vehicles used exclusively in the distribution of newspapers from the publisher to subscribers or distributors. No provision of this act shall be so construed as to deprive any county or municipality within this state of the right of police control over the use of its public highways, or the state highway commission of the right of police control over the use of state highways. This act shall not apply to trucks used in work for the state or any civil subdivision thereof."

Your inquiry concerns the interpretation of the last sentence of the above section, to wit;

\*\*\*\*\*Shall not apply to trucks used in work for the State etc\*\*\*\*\*

The language used in above sentence is unambiguous and we see no need or reason to depart from its natural and ordinary meaning.

Effect is to be given, if possible, to every word, clause, and sentence in the construction of statutes. Words in common use must be given their natural, plain, and ordinary signification and meaning in statutory consideration.

Laucks v. Reis, 374 S. W. 827.

The act passed (Article 8, Chapter 33 Laws 1931 p. 304 et seq) conferred broad powers upon the Public Service Commission to supervise, regulate and license transportation of persons and property for hire over the public highways. Such was the intention of the Legislature. However, Section 5265 supra, specifically exempts classes in which the Public Service Commission cannot regulate. Thus the classes coming under the exemptions have the sole right and power to regulate their motor vehicles.

The act does not deprive the right of police control over the highway.

The act further exempts trucks used in work for the State.

Giving the words in the sentence herein considered their natural, plain and ordinary meaning they must be interpreted in the light of the facts and applied accordingly. It reduces the inquiry then to the application of the sentence to the facts. Was this truck used in work for the State? We think not. It was used only for hauling materials for a contractor and the materials, thus transported, later being used in the construction of a highway by the contractor. The contractor in this case was doing work under a contract with the State and perhaps true the work he does will be accepted by the State under the contract yet it is his work and not the work of the State, and he does the work as a contractor only.

Therefore, it being the contractor's work it must follow that the truck was used in work for the contractor. Ownership; right to use; payment for use; right of control; character of work it is put to; and many other circumstances would also be factors in determining if a truck was in the exemption.

Every case must stand on its own merits, and it is necessarily true that in many instances it is difficult to draw lines of distinction. However, we pass on your inquiry as presented by the facts.

Hon. Dewey A. Routh

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We are of the opinion that the truck hauling materials as set out in your letter is not such a truck as contemplated to be exempt by Section 5365. That it is not a truck used in work for the State.

Yours very truly,

JAMES L. HORNBOSTEL  
Assistant Attorney General.

APPROVED

ROY McKITTRICK  
Attorney General.

JLH:MM